

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 IN RE: NATIONAL )  
5 PRESCRIPTION ) MDL No. 2804  
6 OPIATE LITIGATION )  
7 ) Case No.  
8 THIS DOCUMENT RELATES TO: ) 1:17-MD-2804  
9 )  
10 The County of Lake, Ohio ) Hon. Dan A.  
11 v. Purdue Pharma, LP, et ) Polster  
12 al., )  
13 Case No. 18-op-45032 )  
14 )  
15 The County of Trumbull, )  
16 Ohio v. Purdue Pharma, )  
17 LP, et al., )  
18 Case No. 1:18-op-45079 )  
19 Track 3 Cases )  
20 )  
21 )

22 MONDAY, MARCH 8, 2021

23 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER  
24 CONFIDENTIALITY REVIEW

25 - - -

Remote videotaped deposition of  
George Chunderlik and personal deposition,  
held at the location of the witness in  
Cranberry Township, Pennsylvania, commencing  
at 9:08 a.m. Eastern Time, on the above date,  
before Carrie A. Campbell, Registered  
Diplomate Reporter and Certified Realtime  
Reporter.

- - -

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1 VIDEOGRAPHER: We are now on  
2 the record.

3 My name is Vince Rosica. I'm a  
4 videographer for Golkow Litigation  
5 Services.

6 Today's date is March 8, 2021,  
7 and the time is 9:08 a.m.

8 This remote video deposition is  
9 being held in the matter Of Opioid  
10 Litigation Track 3, Counties of Lake  
11 and Trumbull, Ohio versus Purdue, for  
12 the United States District Court,  
13 Northern District of Ohio, Eastern  
14 Division.

15 The deponent is George  
16 Chunderlik.

17 All parties to this deposition  
18 are appearing remotely and have agreed  
19 to the witness being sworn in  
20 remotely.

21 Due to the nature of remote  
22 reporting, please pause briefly before  
23 speaking to ensure all parties are  
24 heard completely.

25 Counsel will be noted on the

1           stenographic record.

2                   The court reporter is Carrie  
3           Campbell and will now swear in the  
4           witness.

5  
6                   GEORGE CHUNDERLIK,  
7   of lawful age, having been first duly sworn  
8   to tell the truth, the whole truth and  
9   nothing but the truth, deposes and says on  
10  behalf of the Plaintiffs, as follows:

11  
12                   DIRECT EXAMINATION

13   QUESTIONS BY MR. GADDY:

14           Q.     Good morning, Mr. Chunderlik.  
15                   Could you please state your  
16   name?

17           A.     Yes. My name is George  
18   Chunderlik.

19           Q.     And I understand that you are  
20   now retired from Giant Eagle?

21           A.     Yes.

22           Q.     Okay. When did you retire?

23           A.     In July of 2019.

24           Q.     What led you to leave --

25           A.     I'm sorry, Jeff, July of 2020.

1 Q. Thank you.

2 What led you to leave Giant  
3 Eagle?

4 A. I had an opportunity. The  
5 company had offered a corporate buyout to all  
6 corporate employees, and I decided to take  
7 advantage of the buyout that was presented.

8 Q. Tell me a little bit more about  
9 that. What do you mean by "a corporate  
10 buyout"?

11 A. The company was offering  
12 severance to people who decided to take what  
13 I would consider early retirement.

14 Q. Okay. And you opted into that  
15 opportunity?

16 A. I did, yes.

17 Q. Okay. What did that -- what  
18 did that agreement entail?

19 A. I had a -- for my years of  
20 service, I had weeks of severance for the  
21 weeks of -- for the years of service that I  
22 had with Giant Eagle, and I also had some  
23 health care benefits to go along with that as  
24 well.

25 Q. Okay. And I understand -- I

1 had an opportunity to look at the severance  
2 agreement. It looks like you received  
3 severance pay for approximately 24 weeks?

4 A. That's correct.

5 Q. Okay. And most of that was at  
6 your full salary?

7 A. Yes, it was.

8 Q. Okay. You also --

9 A. Excuse me, I'm sorry, excuse  
10 me. It was -- the first 16 -- it was an  
11 incremental, I'll call it, decrease. The  
12 first 16 weeks were at my full salary, and  
13 then from week 17 through the end, which  
14 would be week 24, it was 75 percent of my  
15 salary.

16 Q. Okay. You also continued to  
17 receive a bonus for the year?

18 A. I did receive my bonus for the  
19 fiscal year, yes.

20 Q. Okay. And you received your  
21 full bonus, even though you accepted the  
22 package and retired?

23 A. Yes.

24 Q. Was this an opportunity that  
25 was offered across the board to everybody, or

1     were you part of a subset of employees that  
2     this was offered to?

3             A.       No, I was not part of a subset.  
4     This was offered to all corporate-level  
5     employees.

6             Q.       Did you feel that you were  
7     encouraged in any way by Giant Eagle to  
8     accept the severance and leave the company?

9             A.       No, not at all.

10            Q.       Now, you were previously  
11   deposed in this case, correct?

12            A.       Yes.

13                    MR. KOBRIN: I just want to  
14   make sure there's -- kind of make it  
15   on the record and that I'm not too  
16   quiet or there's not any sound  
17   inference.

18                    Did you guys -- were you able  
19   to hear that? No?

20                    THE WITNESS: I did not hear  
21   anything.

22                    MR. KOBRIN: Let's try it  
23   again. It was about being encouraged  
24   in any way by Giant Eagle to leave the  
25   company that I objected to form on.

1                   But I'll try and -- I'll try  
2                   and be louder.

3                   George, make sure that you kind  
4                   of give me a moment to object. {Audio  
5                   interruption} -- get your answer.

6       QUESTIONS BY MR. GADDY:

7               Q.       Mr. Chunderlik, you were  
8       previously deposed in this case, correct?

9               A.       Correct.

10              Q.       Have you had any discussions  
11     with anyone at Giant Eagle regarding that  
12     deposition?

13              A.       Not that I'm aware of.

14              Q.       Do you know whether or not  
15     anybody at Giant Eagle read that deposition?

16              A.       I'm not aware of that.

17              Q.       Do you recall getting any  
18     feedback from anybody at Giant Eagle  
19     regarding that deposition?

20                   MR. KOBRIN:  Objection to form.

21                   Again, I just want to make  
22     sure, George, that any conversations  
23     or feedback you may have gotten from  
24     counsel at Giant Eagle or outside  
25     counsel is not up for discussion.

1

2 QUESTIONS BY MR. GADDY:

3 Q. Mr. Chunderlik, I think you  
4 said, no, you've not received any feedback  
5 from anyone at Giant Eagle?

6 A. No, I have not.

7 Q. Are you -- have you stayed  
8 retired or are you working again?

9 A. I am working again, yes.

10 Q. Okay. And where are you  
11 working now?

12 A. I work for a company -- it was  
13 Panther Specialty Pharmacy, and Panther had  
14 just recently been bought by a company called  
15 Centene.

16 Q. And what did you do for them?

17 A. I am a pharmacy audit  
18 specialist. I audit third-party prescription  
19 claims that are paid by third-party insurance  
20 and respond to audit requests made by any  
21 insurance that requests information from us  
22 in regards to prescriptions, copies of  
23 prescriptions and those types of things.

24 Q. I want to ask you a couple more  
25 questions about the severance agreement that

1     you entered into with Giant Eagle.

2                     Did you have any conversations  
3     with anybody at Giant Eagle surrounding that  
4     severance agreement regarding this case and  
5     the fact that you may have to continue to be  
6     involved in this case?

7             A.       I didn't have any discussions  
8     with anyone, but in the severance agreement  
9     itself it talked about, you know, if Giant  
10    Eagle was involved in any type of litigation,  
11    that I might be called to cooperate.

12            Q.       And did you have an  
13    understanding at the time that you signed  
14    that agreement that that may involve  
15    requiring you to continue to cooperate in  
16    this case?

17            A.       That was my understanding, yes.

18            Q.       Okay. I also saw that there  
19    was a clause in that agreement regarding --  
20    kind of maybe framed as like an  
21    anti-defamation-type clause that had some  
22    language in there that prohibited you from  
23    saying anything of a defamatory nature about  
24    Giant Eagle.

25                     Do you know what I'm talking

1 about?

2 A. Yes, I do.

3 Q. Okay. Tell me how you  
4 understood that clause of the contract.

5 A. I understand that to mean if I  
6 said anything negative, you know, it could be  
7 social media-wise, anything like that -- you  
8 know, I think -- when I think of defamation,  
9 I think of things to discredit the  
10 organization in any way.

11 Q. Do you understand that clause  
12 to have any impact on your ability to give  
13 truthful testimony here today?

14 A. No, I don't.

15 Q. If at any time you think that  
16 an answer to a question would cause you to be  
17 in violation of that clause or cause you  
18 or -- or anytime you think an answer would  
19 give you pause because of that clause, will  
20 you let me know today?

21 A. Yes, I will.

22 (Chunderlik Exhibit 1 marked  
23 for identification.)

24 QUESTIONS BY MR. GADDY:

25 Q. Mr. Chunderlik, I'm going to

1 show you what we've marked as P-HBC-30, which  
2 is going to be your Tab 12.

3 Let me know when you've got  
4 that out and ready.

5 A. Okay. Just -- I lost some  
6 video.

7 Q. You should be seeing --

8 A. Oh, I see.

9 Q. We're going to pull the  
10 document up on the screen for you.

11 A. I see, yes.

12 Q. You have a hardcopy there in  
13 front of you, but you can always look on the  
14 screen as well.

15 A. Yes.

16 MR. KOBRIN: Hey, I -- you said  
17 Tab 12, Jeff?

18 MR. GADDY: Correct.

19 MR. KOBRIN: I'm unsealing  
20 these, but I -- okay. Here they are.  
21 They're up front. All right.

22 QUESTIONS BY MR. GADDY:

23 Q. You with me, Mr. Chunderlik?

24 A. Yes.

25 Q. Okay. And you see this looks

1     like an e-mail from April 2016. It looks  
2     like you e-mailed something to yourself.

3                     Do you see that? Just looking  
4     at the top of the first page.

5             A.       Okay. Yes.

6             Q.       Okay.

7             A.       Yes.

8             Q.       And just flip the page one time  
9     and we're going to see -- it looks like a  
10    résumé that you prepared or at least had in  
11    your possession back in April of 2016.

12                    Do you see that?

13            A.       Yes.

14            Q.       And I don't want to go over  
15    this in too terribly much detail, but I just  
16    want to make sure we're on the same page  
17    about what you were doing at Giant Eagle over  
18    certain time periods.

19                    But it looks like you have a  
20    pharmacy degree, and you were a practicing  
21    pharmacist from 1980 to 1990, correct?

22            A.       That's correct, yes.

23            Q.       If you flip to the second page  
24    of your résumé, there's an entry that says  
25    "pharmacy trainer" about halfway through that

1 block of text?

2 A. Yes.

3 Q. It indicates you held that  
4 position from January of 1990 to June  
5 of 1996.

6 Do you see that?

7 A. Yes.

8 Q. It says you were responsible to  
9 "implement and oversee training for all  
10 pharmacy team members on the PDX pharmacy  
11 computer system."

12 Correct?

13 A. Yes.

14 Q. And tell us what PDX is.

15 A. PDX is the pharmacy software  
16 that we use to process prescriptions.

17 Q. Okay. And obviously that's a  
18 software you were using back between '90 and  
19 '96.

20 Is that the software that Giant  
21 Eagle continued to use when you left the  
22 company last year?

23 A. It was still owned by PDX, but  
24 it was -- it had gone through several  
25 iterations since the implementation back in

1 January of 1990.

2 Q. Sure, sure, of course.

3 So help me understand what your  
4 specific role was as it related to training  
5 all the pharmacy team members -- well, let me  
6 back up a little bit.

7 When you say "all pharmacy team  
8 members," who's encompassed under that?

9 A. That would be pharmacists and  
10 pharmacy technicians --

11 Q. Okay.

12 A. -- in our stores.

13 Q. And what was your job as far as  
14 helping the pharmacists and the pharmacist  
15 technicians as it came to the PDX system?

16 A. When we were implementing this  
17 particular piece of software, it was -- at  
18 that point in time it was our -- new for  
19 everybody, and I would show them and work  
20 with them to show them how this new software  
21 would work in processing prescriptions.

22 Q. Was this an IT position, or did  
23 you need any type of IT background to do this  
24 job?

25 A. No, I didn't need any IT

1 background to do this job.

2 Q. Okay. Do you have any IT  
3 background?

4 A. I do not.

5 Q. Well, did you have any  
6 involvement in designing the PDX system?

7 A. No, I did not.

8 Q. Did you have any input into the  
9 type of data that would be captured by the  
10 system or the type of data that should be  
11 entered into the system?

12 A. No, I did not.

13 MR. KOBRIN: Form.

14 QUESTIONS BY MR. GADDY:

15 Q. Your involvement was to take  
16 the system and roll it out to the pharmacy  
17 team members and make sure they understood  
18 what it was and knew how to use it; is that  
19 fair?

20 A. Yes.

21 Q. And looks like you left the  
22 company for a bit; is that right?

23 A. Yes, I did.

24 Q. And then came back in 2008, if  
25 we go to the first page of your résumé and

1 look down at the bottom, correct?

2 A. Yes.

3 Q. And it says when you came back  
4 in 2008, you were the manager of pharmacy  
5 training?

6 A. Yes, that was my title.

7 Q. Okay. And the entry there says  
8 that you were "responsible to implement and  
9 oversee the training for all pharmacy team  
10 members, new and existing, including  
11 computer-based classroom and self-study  
12 programs as it relates to the pharmacy."

13 Correct?

14 A. Yes.

15 Q. And again, all pharmacy team  
16 members, that includes pharmacists and  
17 technicians?

18 A. Yes.

19 Q. Now, when we see computer-based  
20 programs -- I've seen the acronyms CBTs in  
21 other places.

22 A. Yes.

23 Q. CBTs means computer-based  
24 training?

25 A. That's correct, yes.

1           Q.       Did you have any involvement in  
2   this position in designing training programs,  
3   or were you just administering programs that  
4   were already created?

5           A.       The majority of the programs, I  
6   would just be administering programs that  
7   were already -- that were already designed.

8           Q.       Okay. And I saw, you know,  
9   examples of programs related to HIPAA  
10  regulations?

11          A.       That was one of the -- that was  
12  one of the programs that would be in those  
13  CBTs, yes.

14          Q.       Okay. I saw maybe another one  
15  related to some type of OSHA regulations?

16          A.       That's correct.

17          Q.       Okay. You said the majority of  
18  them you administered. Can you think of any  
19  of these training programs that you  
20  developed? Any that would be the exceptions  
21  to the rule?

22          A.       There was one where it was also  
23  a HIPAA computer-based training program for  
24  the HITECH Act when it was implemented.

25                   We had designed a training that

1 I was involved in designing, and I also took  
2 part in -- a part in the video itself.

3 Q. Okay. And that was a  
4 HIPAA-related training program, correct?

5 A. Yes.

6 Q. Okay. Any other training  
7 programs that you recall developing as  
8 opposed to just administering?

9 A. No.

10 Q. Now, when you came back to  
11 Giant Eagle in 2008, and during this period  
12 of 2008 to 2012 when you were in charge of  
13 providing training for pharmacists and  
14 pharmacy techs, were you aware that the  
15 country was in the midst of an opioid  
16 epidemic?

17 A. I had -- yes, I did.

18 Q. How were you aware of that?

19 A. Through news articles and  
20 publicity and things like that.

21 Q. During that time period while  
22 you were the manager of pharmacy training and  
23 had this awareness of the opioid epidemic,  
24 had you received any training or education by  
25 Giant Eagle, by the company, in this time

1 period, '08 to 2012, that kind of  
2 reemphasized the fact that the country was in  
3 the midst of an opioid epidemic?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: No formal  
6 training. I -- you know, part of my  
7 job was to stay attuned to things that  
8 were happening within the industry,  
9 and I availed myself of everything  
10 that I could to educate myself about  
11 the opioid epidemic.

12 QUESTIONS BY MR. GADDY:

13 Q. But no training by the company  
14 that you can recall?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: No formal  
17 training.

18 QUESTIONS BY MR. GADDY:

19 Q. Going up to the next entry on  
20 your résumé, in 2012 you became the manager  
21 of pharmacy compliance, correct?

22 A. Yes.

23 Q. Okay. And you served in a  
24 compliance role from July of 2012 until you  
25 left the company last summer, correct?

1           A.       There's not -- this only goes  
2 up to 2016. I was in the compliance role  
3 between 2012 up through early 2019.

4           Q.       What happened then?

5           A.       I became the senior manager of  
6 pharmacy quality and training.

7           Q.       If you look at the third bullet  
8 point, or dash mark, under your  
9 responsibilities for pharmacy compliance  
10 manager, it indicates that one of your duties  
11 was to "monitor and evaluate the development,  
12 implementation, communication and  
13 administration of pharmacy policies and  
14 procedures to ensure compliance with  
15 regulatory statutes, rules and regulations,  
16 in addition to compliance with internal  
17 pharmacy and compliance policies."

18                   Correct?

19           A.       Yes.

20           Q.       Does that bullet point  
21 encompass -- and when you're talking about  
22 some of the rules and regulations and  
23 statutes, does that encompass rules and  
24 regulations under the Controlled Substance  
25 Act?

1           A.       Yes.

2           Q.       Does that encompass rules and  
3 regulations regarding the dispensing of  
4 controlled substances like opioids?

5           A.       Yes.

6           Q.       And certainly if you already  
7 had a general understanding while you were  
8 the manager of pharmacy training, you would  
9 agree that when you take over as the manager  
10 of pharmacy compliance in 2012, you already  
11 had an understanding that the country was in  
12 the midst of an opioid epidemic, correct?

13                   MR. KOBRIN: Object to form.

14                   THE WITNESS: I had a -- I had  
15 an understanding of it.

16 QUESTIONS BY MR. GADDY:

17           Q.       And as a person with a pharmacy  
18 degree and a person who had been a practicing  
19 pharmacist for over a decade, would it be  
20 fair to say that you have an understanding of  
21 some of the dangers associated with opioid  
22 drugs like oxycodone or hydrocodone?

23                   MR. KOBRIN: Object to form.

24                   THE WITNESS: If used  
25 improperly.

1 QUESTIONS BY MR. GADDY:

2 Q. What are some of the dangers  
3 associated with drugs like oxycodone and  
4 hydrocodone?

5 A. If used improperly, you know, a  
6 person has the potential to be addicted to  
7 those substances.

8 Q. And what can that lead to?

9 MR. KOBRIN: Object to form.  
10 Seeks an improper expert testimony.

11 THE WITNESS: You know, if  
12 somebody becomes addicted, I don't  
13 know what could happen to that person.  
14 I can't speculate on, you know, what  
15 happens once somebody does become  
16 addicted.

17 You know, there's potential for  
18 other things to occur, but other than  
19 that, I can't speculate.

20 QUESTIONS BY MR. GADDY:

21 Q. Well, Mr. Chunderlik, by the  
22 time you take on this role as manager of  
23 pharmacy compliance, you've had an  
24 understanding that the opioid epidemic has  
25 been going on for several years, including

1 while you were the manager of pharmacy  
2 training, right?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: I had an  
5 understanding.

6 QUESTIONS BY MR. GADDY:

7 Q. And you say that opioids can be  
8 addictive if used improperly and that you  
9 don't know what can happen if somebody  
10 becomes addicted.

11 But you knew there was an  
12 opioid epidemic, you knew that folks were  
13 getting addicted to these drugs, that they  
14 were being use improperly, and there was harm  
15 being caused; is that fair?

16 MR. KOBRIN: Object to form.

17 Facts not in evidence.

18 You're seeking expert testimony  
19 from a fact witness, Jeff. It's  
20 improper.

21 QUESTIONS BY MR. GADDY:

22 Q. Go ahead, Mr. Chunderlik.

23 A. You're going to have to restate  
24 the question again.

25 Q. Sure.

1                   What I asked you was that you  
2   told us that opioids can be addictive if used  
3   improperly. And then you said you can't  
4   speculate as to what happens if somebody  
5   becomes addicted.

6                   But you've known, going back to  
7   2008, that we're in the middle of an opioid  
8   epidemic and that that's happening because  
9   people are getting addicted and suffering  
10   harms from these drugs.

11                  That's what you knew in your  
12   mind, correct?

13                  MR. KOBRIN: Object to form.  
14                  Facts not in evidence. Seeking expert  
15                  testimony.

16                  You can answer these questions,  
17                  if you can, Mr. Chunderlik.

18                  THE WITNESS: I don't  
19                  necessarily think that I can answer to  
20                  what happens after that. I mean,  
21                  there could be a potential, but  
22                  whether these things happen or not, I  
23                  can't speculate.

24                  I can only see what I saw in,  
25                  you know, media reports and the

1 information that was coming out in  
2 relation to the opioid epidemic.

3 QUESTIONS BY MR. GADDY:

4 Q. And I appreciate that,  
5 Mr. Chunderlik, and I want to make sure that  
6 you understand the question I'm asking and  
7 why I'm asking it.

8 You spent four or five years as  
9 the manager of -- or, excuse me, the manager  
10 of pharmacy training for pharmacists and  
11 pharmacy techs, correct?

12 A. Yes.

13 Q. And you told us that while you  
14 were in that position, you knew there was an  
15 opioid epidemic throughout the country,  
16 correct?

17 MR. KOBRIN: Object to form.  
18 Misstates his testimony. I'm not sure  
19 he said anything about throughout the  
20 country.

21 MR. GADDY: Josh, Josh, just  
22 object to form. I don't need you  
23 testifying.

24 Go ahead, Mr. Chunderlik.

25 MR. KOBRIN: Jeff, I'm going to

1 put my objection on the record if  
2 you're going to keep asking the same  
3 questions to the witness that are  
4 totally improper.

5 MR. GADDY: Josh, stop talking.

6 MR. KOBRIN: Don't respond to  
7 my objections if you don't want me to  
8 talk, Jeff.

9 QUESTIONS BY MR. GADDY:

10 Q. Mr. Chunderlik, you can answer  
11 the question.

12 A. Would you mind just restating  
13 it again?

14 Q. Absolutely.

15 You were the manager of  
16 pharmacy training for about four or five  
17 years, from '08 to 2012, and you already told  
18 us that you understood during that time  
19 period that there was an opioid epidemic  
20 throughout the country, correct?

21 A. Yes.

22 MR. KOBRIN: Object to form.

23 Same objection.

24 QUESTIONS BY MR. GADDY:

25 Q. From there you went on to --

1 from there you went on to --

2 MR. KOBRIN: Jeff --

3 QUESTIONS BY MR. GADDY:

4 Q. -- be the manager of pharmacy  
5 compliance.

6 MR. KOBRIN: Jeff, please stop.

7 George, please give me a moment  
8 to get an objection in. Thank you.

9 QUESTIONS BY MR. GADDY:

10 Q. Mr. Chunderlik, after that you  
11 went on to be the manager of pharmacy  
12 compliance from 2012 through 2019, correct?

13 A. Not through the mid --  
14 mid-2019.

15 Q. Right.

16 And again, during that time  
17 period, you've already told us, you had an  
18 understanding that there was an opioid  
19 epidemic, correct?

20 A. Yes.

21 Q. Okay. And what I'm trying to  
22 understand here is your personal opinion and  
23 your personal understanding as the person who  
24 held that -- those two roles at Giant Eagle,  
25 the person that was in charge of training the

1 pharmacists and the pharmacy techs and the  
2 person that was in charge of pharmacy  
3 compliance.

4 Did you have an understanding  
5 that in the communities in which Giant Eagle  
6 pharmacies existed that there were people  
7 that were using opioids improperly and  
8 becoming addicted and that there was harm  
9 occurring from that?

10 Did you have that personal  
11 understanding?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: There's a --  
14 there could be a potential for that.

15 QUESTIONS BY MR. GADDY:

16 Q. I understand there could be a  
17 potential for that.

18 But further than that, it was  
19 happening in the communities where there were  
20 Giant Eagle pharmacies, correct?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: I don't  
23 necessarily know that for sure.

24 QUESTIONS BY MR. GADDY:

25 Q. You don't know whether or not

1     there were people suffering from opioid  
2     abuse, opioid addiction and opioid overdose  
3     deaths in communities in Ohio?

4                     MR. KOBRIN:   Object to form.

5                     THE WITNESS:   I could only  
6                     presume so based upon the news reports  
7                     and everything that I had seen in the  
8                     media.

9     QUESTIONS BY MR. GADDY:

10             Q.       Did you use that knowledge  
11             about the opioid epidemic and the fact that  
12             there were people in the communities,  
13             including in Ohio, where these Giant Eagle  
14             were located that were addicted and were  
15             suffering, and some people were overdosing  
16             and dying, did you use that knowledge in your  
17             day-to-day job when you were training  
18             pharmacists and when you were the manager of  
19             pharmacy compliance?

20                     MR. KOBRIN:   Object to form.

21                     Facts not in evidence.   Lack of  
22                     foundation.

23                     Go ahead, George.

24                     THE WITNESS:   I can't say that  
25                     I used the opioid epidemic

1 specifically to -- in training to talk  
2 about that specifically in relation to  
3 any training in regards to controlled  
4 substance dispensing.

5 QUESTIONS BY MR. GADDY:

6 Q. Okay. So the answer is no, you  
7 did not use that understanding on a daily  
8 basis of your job, correct?

9 MR. KOBRIN: Object to form.

10 Presumes facts not in evidence.

11 THE WITNESS: If I felt it was  
12 necessary to bring it as part of --  
13 and discuss it, we would do that, but  
14 I can't point to any specific times  
15 that I did that.

16 QUESTIONS BY MR. GADDY:

17 Q. Okay. Let's turn the page,  
18 Mr. Chunderlik, and look at some of the notes  
19 that you included in this presentation that  
20 you e-mailed to yourself back in April  
21 of 2016. And I'm going to go down to the  
22 note on slide 3, towards the bottom of the  
23 page.

24 You with me?

25 A. Yes.

1           Q.       I'm going to start with the  
2       second sentence in the first paragraph. It  
3       says, "Over the last five years, the number  
4       of deaths due to accidental opioid poisoning  
5       has increased at an alarming rate, and the  
6       issue has reached epidemic proportions."

7                       Did I read that correctly?

8           A.       Jeff, I want to make sure I'm  
9       on the same page.

10                      Which tab is this? Are we  
11       still on Tab 12?

12           Q.       We are, Mr. Chunderlik. If you  
13       look down at the bottom of the page, it  
14       should have a Bates number that ends 277.  
15       This is the page right behind your résumé.

16           A.       Okay.

17                      MR. KOBRIN: George, to the  
18       extent you feel you need to, please  
19       feel free to read the document and --  
20       to the extent you need to get  
21       background as to what it is.

22       QUESTIONS BY MR. GADDY:

23           Q.       Let me read that again for you.  
24       I'm under slide 3.

25                      Do you see that?

1           A.       Yes.

2           Q.       And I'm going to go to the  
3       second sentence. It says, "Over the last  
4       five years, the number of deaths due to  
5       accidental opioid poisoning has increased at  
6       an alarming rate, and the issue has reached  
7       epidemic proportions."

8                     Did I read that correctly?

9           A.       Yes.

10          Q.       And it goes to say, "Which is  
11       why the DEA has stepped up enforcement  
12       actions."

13                     Correct?

14          A.       Yes.

15                     MR. KOBRIN: Object to form.

16                     Misstates the document.

17       QUESTIONS BY MR. GADDY:

18          Q.       And this was an understanding  
19       and something that you were putting in  
20       presentations that you were giving at Giant  
21       Eagle back in this 2014 time period, correct?

22          A.       This particular presentation  
23       was for something that I had to do for a --  
24       for an opportunity to move into a promotional  
25       position.

1 Q. Okay. So who was the audience  
2 for this presentation?

3 A. This would have been people who  
4 were interviewing me for the position that I  
5 was seeking.

6 Q. People at Giant Eagle?

7 A. At Giant Eagle, yes.

8 Q. Okay. Is this like board of  
9 directors-type folks?

10 A. No, this was not board of  
11 directors.

12 Q. Can you give me some titles of  
13 the type of people you would have been  
14 presenting to here?

15 A. Colleagues within the pharmacy,  
16 operations department.

17 Q. Would these have been people at  
18 corporate level --

19 A. Yes.

20 Q. -- as opposed to people at  
21 store level?

22 A. Yes, this was corporate.

23 Q. Okay. So this was a  
24 presentation to corporate that coincided with  
25 a -- essentially a job interview process?

1 A. Yes.

2 Q. Okay. It goes on in the second  
3 paragraph and says, "Pharmacists are  
4 constantly reminded of their corresponding  
5 responsibility to ensure that a prescription  
6 is issued for a legitimate medical purpose by  
7 an individual practitioner acting in the  
8 usual course of his professional practice."

9 Correct?

10 A. Yes.

11 Q. When it says that pharmacists  
12 have a "corresponding responsibility," you  
13 put that phrase in quotations, correct?

14 A. Yes.

15 Q. What is -- to whom does the  
16 pharmacist have a corresponding  
17 responsibility?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: I don't know if  
20 they have a corresponding  
21 responsibility to an individual, but  
22 they have a responsibility to ensure  
23 that the prescription is issued for a  
24 legitimate medical purpose by the  
25 practitioner and that it's a valid

1 prescription.

2 QUESTIONS BY MR. GADDY:

3 Q. And it's both a legal and an  
4 ethical obligation, correct?

5 MR. KOBRIN: Object to form.

6 Facts not in evidence. Seeks a legal  
7 interpretation.

8 THE WITNESS: That's my  
9 understanding.

10 QUESTIONS BY MR. GADDY:

11 Q. Is that it's both a legal and  
12 ethical obligation, right?

13 A. Yes.

14 MR. KOBRIN: Object to form.

15 QUESTIONS BY MR. GADDY:

16 Q. And, Mr. Chunderlik, is it fair  
17 to say that the practical, kind of the  
18 everyday implication of the corresponding  
19 responsibility that sits with the pharmacist  
20 is that they are not permitted to just  
21 blindly rely on a prescription that's  
22 presented to them by a doctor -- or excuse  
23 me, by a patient who had that prescription  
24 written by a doctor? Is that fair?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: If you would  
2 just -- could you just restate that  
3 one more time?

4 QUESTIONS BY MR. GADDY:

5 Q. Absolutely.

6 Is it fair to say that the  
7 practical kind of everyday implication of the  
8 corresponding responsibility that rests with  
9 the pharmacist is that they are not permitted  
10 to just blindly accept a prescription and  
11 fill it but that they had their own  
12 responsibilities to do due diligence into  
13 those prescriptions?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Due diligence to  
16 make sure that it's a valid  
17 prescription for a legitimate medical  
18 use.

19 QUESTIONS BY MR. GADDY:

20 Q. So, yes, they're not permitted  
21 to just blindly rely on a doctor, true?

22 MR. KOBRIN: Object to form.

23 Asked and answered.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. GADDY:

2 Q. And as it relates to  
3 prescriptions for opioids, you would agree  
4 that it's important that a pharmacist carry  
5 out their corresponding responsibility and do  
6 appropriate due diligence on both the legal  
7 and ethical components of that corresponding  
8 responsibility because opioids have dangers  
9 associated with them, correct?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: Pharmacists had a  
12 responsibility for any prescription to  
13 make sure that it was, you know, a  
14 valid prescription and issued for a  
15 legitimate medical purpose.

16 QUESTIONS BY MR. GADDY:

17 Q. I understand that,  
18 Mr. Chunderlik, but I'm not asking about any  
19 prescription. I'm asking about opioid  
20 prescriptions.

21 Okay?

22 A. Including opioid prescriptions.

23 Q. Okay. Well, I'm pulling opioid  
24 prescriptions out, okay, and putting them  
25 into a different subset here, and I'm only

1 asking about opioid prescriptions.

2 Do you understand that?

3 A. Yes.

4 MR. KOBRIN: Object to form.

5 QUESTIONS BY MR. GADDY:

6 Q. So as it relates to opioid  
7 prescriptions, do you agree that it's  
8 important that a pharmacist carries out their  
9 corresponding obligation, both components,  
10 the legal and ethical arms of that, and that  
11 they perform adequate due diligence to ensure  
12 that the prescription has been written for a  
13 legitimate medical purpose because there are  
14 dangers associated with opioids?

15 MR. KOBRIN: Object to form,  
16 and asked and answered. And  
17 completely asked and answered.  
18 There's nothing about the prior  
19 answer --

20 MR. GADDY: That's not an  
21 objection, Josh. Please stop.

22 MR. KOBRIN: Do you want to  
23 engage, Jeff? Is that what you want  
24 to do? Do you want to talk about my  
25 objection?

1 QUESTIONS BY MR. GADDY:

2 Q. Mr. Chunderlik, please answer  
3 the question.

4 A. Could you just restate it  
5 again?

6 Q. Sure. I'll ask it for the  
7 third time.

8 I'm asking just about opioid  
9 prescriptions, Mr. Chunderlik, and I'm asking  
10 you whether or not you agree that it's  
11 important that a pharmacist carries out their  
12 corresponding responsibility, both the legal  
13 and ethical components of that  
14 responsibility, and performs adequate due  
15 diligence to ensure that opioid prescriptions  
16 are written for a legitimate medical purpose  
17 because of the dangers associated with  
18 opioids.

19 MR. KOBRIN: Object to form.

20 THE WITNESS: Yes.

21 MR. KOBRIN: Same objection.

22 QUESTIONS BY MR. GADDY:

23 Q. And some of those dangers  
24 include that those pills are addictive,  
25 correct?

1           A.       They have the potential --

2                   MR. KOBRIN:   Object to form.

3   QUESTIONS BY MR. GADDY:

4           Q.       That those pills can be abused,  
5   correct?

6                   MR. KOBRIN:   Object to form.

7                   THE WITNESS:   They have a  
8           potential.

9   QUESTIONS BY MR. GADDY:

10          Q.       People can overdose and die  
11   from taking opioids, correct, Mr. Chunderlik?

12                  MR. KOBRIN:   Object to form.

13                  THE WITNESS:   If they're taken  
14           improperly, they may have the  
15           potential to cause that.

16   QUESTIONS BY MR. GADDY:

17          Q.       And, Mr. Chunderlik, this  
18   obligation that pharmacists have to carry out  
19   a corresponding responsibility that's in this  
20   PowerPoint, I know the PowerPoint is from  
21   2014, I think we saw, but that's not a new  
22   concept then, right?   Or excuse me, 2016.  
23   That's not a new concept then, right?  
24   Corresponding responsibility has been around  
25   for a while, right?

1           A.       Yes.

2           Q.       Okay. And Giant Eagle has been  
3 dispensing opioids going back at least to  
4 when you were a pharmacist in the 1980s; is  
5 that fair?

6           A.       Yes.

7           Q.       And corresponding  
8 responsibility was in place while you were a  
9 pharmacist, or at least a practicing  
10 pharmacist, I should say, right?

11          A.       Yes.

12          Q.       Down here in the very last  
13 paragraph, you write, "The companies that do  
14 not have tight policies and procedures to  
15 follow and monitor these activities may find  
16 themselves facing huge fines and closure of  
17 facilities for extreme violations."

18                   Is that correct?

19          A.       Yes.

20          Q.       Now, Mr. Chunderlik, I can  
21 understand that huge fines are something that  
22 a company wants to avoid, but if a pharmacist  
23 does not properly carry out their  
24 corresponding responsibility, you agree that  
25 there could be serious public health

1 consequences, right?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: There is a  
4 possibility of that.

5 MR. KOBRIN: George, you've got  
6 to wait for me to make my objection,  
7 okay? Please try and wait and give me  
8 the time to make an objection.

9 Object to form. Facts not in  
10 evidence. Seeks an expert.

11 QUESTIONS BY MR. GADDY:

12 Q. You'll agree, Mr. Chunderlik,  
13 that while on one hand companies like Giant  
14 Eagle may want to avoid paying fines, that if  
15 a pharmacist does not properly carry out  
16 their corresponding responsibility when it  
17 comes to prescriptions for drugs like  
18 opioids, that people can get addicted and  
19 people can die, right?

20 MR. KOBRIN: Object to form.  
21 Asked and answered.

22 THE WITNESS: I've answered  
23 that question previously.

24 (Chunderlik Exhibit 2 marked  
25 for identification.)

1 QUESTIONS BY MR. GADDY:

2 Q. And the answer is yes, right?

3 A. I believe so.

4 Q. Mr. Chunderlik, we're going to  
5 go to a different document now. I'm going to  
6 show you P-HBC-26, which is going to be your  
7 Tab Number 8.

8 And let me know when you're  
9 there.

10 A. Okay. Yes.

11 Q. And it looks like this is a  
12 presentation given by you in 2013, correct?

13 A. Yes.

14 Q. Do you know who the audience  
15 would have been for this presentation?

16 A. This would have been our  
17 pharmacy compliance committee.

18 Q. And flip, if you would for me,  
19 please, to the Bates on the bottom right-hand  
20 corner, to the Bates ending 998.

21 A. Yes.

22 Q. Never mind. It says that on  
23 every page.

24 Go with me, please -- I'm about  
25 15 pages in -- to a slide that says at the

1 top, "Prescription drug abuse epidemic."

2 Go back one, please Gina.

3 (Discussion off the record.)

4 QUESTIONS BY MR. GADDY:

5 Q. Do you see what we've got on  
6 the screen, Mr. Chunderlik?

7 A. Yes.

8 Q. That's the page I'm trying to  
9 go to.

10 You with me?

11 A. Okay. Yes, I am.

12 Q. You see the title of this slide  
13 is, "Prescription Drug Abuse Epidemic"?

14 A. Yes.

15 Q. And in the graph there it  
16 says -- or excuse me. Just above the graph  
17 in the gray -- on my version it's a  
18 grayed-out block. It says, "100 people die  
19 from drug overdoses every day in the United  
20 States."

21 Do you see that?

22 A. Yes.

23 Q. And at the top of the graph  
24 there it says, "Drug overdose death rates in  
25 the US have more than tripled since 1990."

1 Correct?

2 A. Yes.

3 Q. And I think it's -- I think  
4 it's kind of coincidental, but it looks like  
5 the timing on this graph starts in 1990 when  
6 you left as a practicing pharmacist and then  
7 picks back -- and then the graph ends at 2008  
8 when you came back to the company, right?

9 A. Yes.

10 Q. And you see that during that  
11 time period there was a pretty drastic rise  
12 in the rate of overdose deaths across the  
13 country from opioids, correct?

14 A. Yes.

15 Q. And again, as you told us, this  
16 is information that you were aware of when  
17 you were in your pharmacy training role and  
18 your manager of pharmacy compliance role,  
19 correct?

20 A. Yes.

21 Q. And if you turn the page with  
22 me, please, you see this continues, and the  
23 first bullet point says, "In 2009, the deaths  
24 from prescription drug overdoses exceed the  
25 deaths from auto accidents for the first time

1 ever."

2 Did I read that correctly?

3 A. Yes.

4 Q. And then in the next bullet  
5 point it says, "Over 20 percent of Americans  
6 admit to abusing prescription drugs."

7 Correct?

8 A. Yes.

9 Q. Now, why was this information  
10 that you thought was necessary to include in  
11 this PowerPoint to the pharmacy team -- or  
12 excuse me, to the compliance team?

13 A. To make sure that everyone on  
14 the compliance team was aware of this.

15 Q. Okay. And you agree that it  
16 was important for everybody in the compliance  
17 team to see that there were real  
18 life-and-death implications to the opioid  
19 epidemic, and it's not just about the huge  
20 fines that could be instituted on a company  
21 like Giant Eagle, correct?

22 A. Yes.

23 Q. You go on to say in the next  
24 bullet point that "Prescription drugs are now  
25 the recognized gateway drugs to heroin and

1 other illegal drugs."

2 Correct?

3 A. Yes.

4 Q. What did you mean by that when  
5 you included that within this presentation?

6 A. It was another bullet point to  
7 show the potential for how the opioid  
8 epidemic has a potential to possibly cause  
9 harm.

10 Q. And did you have an  
11 understanding and an awareness that this was  
12 happening within communities where there are  
13 Giant Eagle pharmacies, in Ohio and in  
14 Pennsylvania, that these prescription drugs  
15 were acting as a gateway drug to things like  
16 heroin?

17 MR. KOBRIN: Object to form.

18 THE WITNESS: I knew that there  
19 was a possibility that that could be  
20 part of it as well.

21 QUESTIONS BY MR. GADDY:

22 Q. And, Mr. Chunderlik, I  
23 appreciate that, but I'm asking for more than  
24 a possibility.

25 Did you have an awareness that

1 that was actually happening in the  
2 communities where there were Giant Eagle  
3 stores?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: I --

6 MR. KOBRIN: Asked and  
7 answered.

8 THE WITNESS: I mean, I could  
9 surmise that, but I don't know it  
10 necessarily 100 percent to be true. I  
11 could surmise from the statistics that  
12 that might be a possibility.

13 MR. KOBRIN: I don't want you  
14 to speculate, George.

15 THE WITNESS: Pardon me?

16 MR. KOBRIN: I don't want you  
17 to speculate, George. You're here to  
18 testify about facts that you know.

19 Okay?

20 THE WITNESS: Yes.

21 QUESTIONS BY MR. GADDY:

22 Q. Mr. Chunderlik, did you have to  
23 apply for the position of manager of pharmacy  
24 compliance?

25 A. No, I don't recall having to

1     apply for that position.

2             Q.       When you took over that  
3     position, were you replacing somebody? Was  
4     there somebody else in that role before you?

5             A.       No, I was -- we had actually a  
6     senior manager that held that position as  
7     well, so I was just a -- you know, I was the  
8     manager, and there was a senior manager of  
9     pharmacy compliance.

10            Q.       Okay. So were you the first  
11    person at Giant Eagle to hold that as a  
12    standalone position?

13            A.       No.

14            Q.       Okay. Well, maybe I  
15    misunderstood your answer then.

16                    So who did that job before you  
17    did?

18            A.       There was a gentleman by the  
19    name of Joe Millward. He was the senior  
20    manager of pharmacy compliance at that point  
21    in time.

22            Q.       Okay. And while you were the  
23    manager of pharmacy compliance, you reported  
24    to Joe?

25            A.       I did, yes.

1           Q.       Okay. Prior to you going into  
2 the role, was it just Joe, or was he  
3 reporting to somebody?

4           A.       Joe would have reported up  
5 through upper manager -- upper management to  
6 the director of pharmacy at that period of  
7 time.

8           Q.       Okay. But before you went into  
9 that role, there was just one pharmacy  
10 compliance person. It was Joe. You went  
11 into the role and became the manager of  
12 pharmacy compliance, and Joe maintained a  
13 senior manager of pharmacy compliance title.

14                   Do I have that right?

15          A.       Yes.

16          Q.       Now, I had the opportunity to  
17 look through some of your performance  
18 evaluations over the years.

19          A.       Yes, sir.

20          Q.       And what they did was give me a  
21 decent sense of some of the different types  
22 of matters and tasks that you worked on in  
23 the pharmacy compliance position.

24                   Can you, kind of in your own  
25 words from a high-level perspective, explain

1 to us what you saw your job as in the manager  
2 of pharmacy compliance?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Well, I was  
5 responsible for, you know, the things  
6 that we already talked about in my  
7 résumé, that we reviewed previously.

8 QUESTIONS BY MR. GADDY:

9 Q. Can you give me a little more  
10 detail? I think we only covered one of the  
11 four bullet points in your résumé. So I'm  
12 looking for you to just give me kind of an  
13 overview.

14 If you were -- if you had been  
15 out at a cocktail party, somebody had asked  
16 you what you do and wanted a 60-second  
17 answer, what would you have told them?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: That I was  
20 responsible for communicating pharmacy  
21 regulatory requirements to our stores,  
22 and I had some responsibility in  
23 training and those types of issues.

24 And I was also responsible for  
25 staying up to date with regulatory

1 issues so they could be communicated  
2 and explained to our pharmacists and  
3 pharmacy team members.

4 MR. KOBRIN: Can I make a quick  
5 request? If we're not going to have a  
6 document, I have a 90 percent black  
7 screen right now -- thank you.

8 Exactly what I was asking.

9 QUESTIONS BY MR. GADDY:

10 Q. And, Mr. Chunderlik, we're  
11 focusing today on controlled substance  
12 dispensing and controlled substance  
13 regulations. But fair to say that that was  
14 just a component of the different types of  
15 regulations that -- that were under your  
16 purview while you were in this role?

17 A. Yes, that would be just a  
18 component.

19 Q. Okay. If you were to kind of  
20 give us a breakdown of the percentage of your  
21 time or attention that would have been spent  
22 on controlled substance pharmacy-related  
23 regulations as opposed to the other things  
24 that fell under your purview, whether it was  
25 HIPAA, OSHA, you know, pseudoephedrine-type

1 issues, List I issues, can you give us your  
2 best estimate as to where controlled  
3 substance policy regulations were compared to  
4 the others?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: I would say  
7 probably about 15 to 20 percent of my  
8 job duties.

9 QUESTIONS BY MR. GADDY:

10 Q. And one of the first things  
11 that you were asked to do when you became a  
12 manager of pharmacy compliance was to draft a  
13 controlled substance dispensing policy; is  
14 that correct?

15 MR. KOBRIN: Object to form.  
16 Foundation. Assumes facts not in  
17 evidence.

18 THE WITNESS: One of my first  
19 duties? I wouldn't say that was one  
20 of my first duties when I became  
21 involved in compliance.

22 I was more involved, when I  
23 first became involved in compliance,  
24 in helping our store -- in helping our  
25 company be accredited for durable

1 medical equipment with Medicare Part B  
2 and CMS. That was my -- one of my  
3 initial duties, and that took up a  
4 great deal of my time at that period  
5 of time.

6 QUESTIONS BY MR. GADDY:

7 Q. Okay. And about what time  
8 period was that in; do you remember?

9 A. That would have been when I  
10 first became manager of pharmacy compliance  
11 in the 2012 time frame.

12 Q. Okay. Mr. Chunderlik, I'm  
13 going to look -- I don't know if you --

14 Josh, I don't know how you got  
15 this to Mr. Chunderlik, but I want to look at  
16 one of the entries on his performance review.

17 So, Mr. Chunderlik, I don't  
18 have if you have that in hard copy. If not,  
19 we can just put it up on the screen for you.

20 A. Okay.

21 MR. KOBRIN: I have it. I'd  
22 actually prefer -- can you tell me  
23 what you're going to send him, and I  
24 will try and get it to him? I'd  
25 rather he have it in hard copy.

1 I mean, we can take a quick  
2 break if you want. You can just send  
3 me the page.

4 MR. GADDY: It's what you sent  
5 me yesterday, so --

6 MR. KOBRIN: Yeah, I -- you  
7 sent me an article last night. You  
8 didn't tell me that you were going to  
9 present any of these documents --  
10 {audio interruption}.

11 MR. GADDY: Okay. Well, we can  
12 go off the record. We can go off the  
13 record.

14 MR. KOBRIN: I don't know if  
15 he's seen them or not. I mean, I  
16 expect he has probably considering  
17 they're his performance reviews,  
18 but --

19 MR. GADDY: We can go off the  
20 record.

21 VIDEOGRAPHER: The time is  
22 10:00 a.m. We are off the record.

23 (Off the record at 10:00 a.m.)

24 VIDEOGRAPHER: The time is  
25 10:29 a.m. We are back on the record.

1 (Chunderlik Exhibit 3 marked  
2 for identification.)

3 QUESTIONS BY MR. GADDY:

4 Q. Mr. Chunderlik, we're going to  
5 look at P-HBC-38, which is going to be your  
6 performance reviews. And I understand you've  
7 had an opportunity to print at least the  
8 first ten or so pages of those out, correct?

9 A. Yes.

10 Q. Okay. And we can just look at  
11 the first page, and by "the first page" I  
12 mean the Bates number 14983 at the bottom  
13 right-hand corner.

14 Do you have page in front of  
15 you?

16 A. Yes.

17 Q. Okay. And it looks like this  
18 is the performance review for you for fiscal  
19 year 2013, which runs from July of '12  
20 through June of '13.

21 Right?

22 A. Yes.

23 Q. And at the left-hand side of  
24 the page we see your name and your position  
25 as the manager of pharmacy compliance,

1 correct?

2 A. Yes.

3 Q. Okay. And I think you'd  
4 already told us that you reported to Joseph  
5 Millward, who was there listed below you,  
6 correct?

7 A. Yes.

8 Q. Okay. So what I was asking you  
9 about before we took a break was whether or  
10 not you had involvement, or the timing of  
11 your involvement, in drafting a controlled  
12 substance dispensing policy. So what I want  
13 to do now is look at that in just a little  
14 bit more detail as far as when that happened.

15 So if you would turn with me,  
16 please, to Bates number 14985, so it should  
17 be the third page of this. And down in the  
18 bottom third of the page, you'll see an entry  
19 related to the Giant Eagle controlled  
20 substance dispensing policy.

21 Let me know when you're there.

22 MR. KOBRIN: Object to form.

23 It's going to be dispensing  
24 guideline, I think is what you want to  
25 look for.

1 THE WITNESS: Dispensing  
2 guideline.

3 QUESTIONS BY MR. GADDY:

4 Q. Okay. You with me,  
5 Mr. Chunderlik?

6 A. Yes.

7 Q. All right.

8 A. It says, "Develop a GE  
9 controlled substance dispensing guideline."

10 Q. Okay. Perfect. Thanks. I  
11 think I might have said policy, but guideline  
12 is what -- the terminology used, correct?

13 A. Yes.

14 Q. And looking in the middle line,  
15 the middle kind of section about halfway  
16 across, it has a start date of July 1, 2012,  
17 and the date that it was due was the end of  
18 the fiscal year, June 30, 2013, correct?

19 A. Yes.

20 Q. Okay. And what you were being  
21 asked to do here was to draft a dispensing  
22 guideline related specifically to controlled  
23 substances, correct?

24 MR. KOBRIN: Object to form.

25 Assumes facts not in evidence.

1 THE WITNESS: It is a  
2 controlled substance dispensing  
3 guideline.

4 QUESTIONS BY MR. GADDY:

5 Q. Okay. And was that your idea  
6 to do or did somebody ask you to do that?

7 A. That was, you know, brought by  
8 the upper management of Giant Eagle.

9 Q. And policies or guidelines such  
10 as the one that you drafted here, or were  
11 asked to draft here, could be important for a  
12 company like Giant Eagle, correct?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: They are  
15 important so that we can educate team  
16 members.

17 QUESTIONS BY MR. GADDY:

18 Q. And when you say "team  
19 members," you're referring to pharmacists and  
20 pharmacy techs, correct?

21 A. Yes.

22 Q. And fair to say that at any  
23 particular time there are hundreds of  
24 pharmacists and pharmacy techs that work for  
25 Giant Eagle in the different stores across

1 the country?

2 A. Yes.

3 Q. Okay. And guidelines or  
4 policies like this one here can be a good way  
5 for the company to communicate the way that  
6 they want things done when it relates to a  
7 certain topic, correct?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: It's a way for --  
10 it's a way to communicate out to the  
11 stores of what is to be expected.

12 QUESTIONS BY MR. GADDY:

13 Q. Okay. And it's a good way for  
14 the company to tell the team members, as you  
15 call them, the pharmacists and the pharmacist  
16 technicians, how the company wants different  
17 tasks to be performed, correct?

18 A. It's a tool for the -- it's a  
19 tool to be used to help the team members do  
20 their job.

21 Q. And when you were asked to  
22 author the controlled substance dispensing  
23 guidelines between 2012 and 2013, you weren't  
24 updating a prior policy or a prior guideline;  
25 you were writing a new guideline, correct?

1 MR. KOBRIN: Object to form.

2 Assumes facts not in evidence.

3 THE WITNESS: It was a  
4 guideline of information that had been  
5 communicated to stores through various  
6 communication avenues that we had. We  
7 put it in formalized -- in a  
8 formalized manner.

9 QUESTIONS BY MR. GADDY:

10 Q. Mr. Chunderlik, this was the  
11 first controlled substance dispensing  
12 guideline, correct?

13 MR. KOBRIN: Object to form.

14 Assumes facts not in evidence.

15 THE WITNESS: I don't  
16 necessarily know what you mean by it's  
17 the first dispensing guideline.

18 We -- we -- you know, we  
19 communicated to our stores in various  
20 means about controlled substances.  
21 This was just a way to put it in a  
22 more formalized manner.

23 QUESTIONS BY MR. GADDY:

24 Q. Mr. Chunderlik, this was the  
25 first written controlled substance dispensing

1 guideline prepared by Giant Eagle, correct?

2 MR. KOBRIN: Same objection.

3 Object to form. Same objection.

4 THE WITNESS: In this manner.

5 QUESTIONS BY MR. GADDY:

6 Q. In this manner, yes? Is that  
7 what you're saying?

8 A. In this formalized manner.

9 Q. Okay. This was the first  
10 written, formalized controlled substance  
11 dispensing guideline issued by Giant Eagle,  
12 correct?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: It was -- it was  
15 a guideline that we had put out there,  
16 but we had communication about  
17 guidelines in various forms before  
18 this as well.

19 QUESTIONS BY MR. GADDY:

20 Q. I understand that that's your  
21 position, Mr. Chunderlik, but my question is  
22 a little bit different.

23 I'm asking you whether or not  
24 this was the first written, formalized  
25 controlled substance dispensing guideline

1 issued by Giant Eagle.

2 MR. KOBRIN: Object to form. I  
3 object to form. Asked and answered.

4 THE WITNESS: Yes, I -- you  
5 know, my answer is still the same.

6 QUESTIONS BY MR. GADDY:

7 Q. That, yes, this is the first  
8 written, formalized controlled substance  
9 dispensing guideline, true?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: No, we had  
12 other -- we had other communications,  
13 written communications, that were sent  
14 to the -- that went out to the stores  
15 in various forms prior to this as  
16 well.

17 QUESTIONS BY MR. GADDY:

18 Q. Is there any -- anything prior  
19 to that that you can point me to?

20 A. We -- we had, you know, team  
21 leader calls that may have been -- had  
22 agendas, but I don't recall specifically, no.

23 Q. Okay. So this is the first  
24 written, formalized controlled substance  
25 dispensing guideline that was prepared by

1 Giant Eagle and issued out to the team  
2 members, correct?

3 MR. KOBRIN: Object to form.

4 Asked and answered.

5 THE WITNESS: My answer is the  
6 same as it was before.

7 QUESTIONS BY MR. GADDY:

8 Q. Which is, yes, this is the  
9 first written, formalized controlled  
10 substance dispensing guideline, correct?

11 MR. KOBRIN: Object to form.

12 Asked and answered.

13 THE WITNESS: We had  
14 communications out to our stores prior  
15 to this particular formalized -- the  
16 way it was formalized in this manner.

17 QUESTIONS BY MR. GADDY:

18 Q. I understand that,  
19 Mr. Chunderlik, but that's not at all what  
20 I'm asking about. Okay?

21 I'm not asking about other  
22 communications and other forms. I'm asking a  
23 very, very specific question here, okay?

24 I want to know whether or not  
25 this was the first written, formalized

1 controlled substance dispensing guideline  
2 issued by Giant Eagle; yes or no?

3 MR. KOBRIN: Object to form.

4 Asked and answered. Also vague.

5 I think the term "guideline" is  
6 causing the problem here. He's saying  
7 there have been guidelines and  
8 communications --

9 MR. GADDY: Josh, Josh, I don't  
10 need your testimony.

11 MR. KOBRIN: {Audio  
12 interruption} -- or something.

13 MR. GADDY: Josh, stop talking.

14 MR. KOBRIN: I don't need you  
15 harassing the witness. I suggest you  
16 move on, Jeff.

17 QUESTIONS BY MR. GADDY:

18 Q. Mr. Chunderlik, can you please  
19 just answer the question?

20 A. No, because we had other types  
21 of communications out to our stores, you  
22 know, whether it was -- you know, this was  
23 just a formalized document in a certain form  
24 that we sent it out to our stores and wanted  
25 to have it out to our stores.

1 Q. There you go.

2 This is the first written,  
3 formalized controlled substance --

4 A. No, formal --

5 Q. I'm not asking about team  
6 member phone calls. I'm not asking about --

7 A. No, in this particular manner.

8 Q. -- individual pharmacists. I'm  
9 asking whether or not this is the first  
10 written, formalized controlled substance  
11 guideline that was issued by Giant Eagle; yes  
12 or no.

13 MR. KOBRIN: Object to form.

14 Asked and answered. Badgering the  
15 witness.

16 THE WITNESS: You know, I felt  
17 that I answered that question  
18 previously.

19 QUESTIONS BY MR. GADDY:

20 Q. Are you not going to answer it  
21 now?

22 A. Well, it's -- my answer is  
23 going to be the same as it was before.

24 We had other types of  
25 communication and -- that we communicated out

1 to our stores. This was a formal document  
2 that we put together in this manner.

3 Q. So, yes, this was the first  
4 formal document on controlled substance  
5 dispensing that Giant Eagle put together,  
6 correct?

7 MR. KOBRIN: Object -- whoa,  
8 whoa, whoa. Object to form. That's a  
9 very different question.

10 You're causing some confusion  
11 here. I think you should look at the  
12 way you phrased that and look at the  
13 prior question.

14 And I do suggest that you look  
15 at the way you're phrasing the  
16 questions and why the witness is  
17 having trouble answering the way you  
18 want him to, Jeff.

19 QUESTIONS BY MR. GADDY:

20 Q. Mr. Chunderlik, can you answer  
21 the question?

22 A. This was a formalized document  
23 that was, you know, put together, but we had  
24 previous types of communications with our  
25 stores in -- you know, I can't put a finger

1 on it or I can't point to specific documents  
2 or anything like that, but this is -- you  
3 know, in a formalized manner, that's how we  
4 sent it out to the store at that period of  
5 time.

6 Q. Well, what does your  
7 performance evaluation issue the goal name  
8 was for this product? What was it that you  
9 were supposed to do?

10 A. To put -- to develop a  
11 formalized controlled substance dispensing  
12 guideline in this manner.

13 Q. Well, what does "develop" mean  
14 to you, Mr. Chunderlik?

15 A. To develop it in this manner,  
16 in this written, formalized document.

17 Q. Okay. And if you move over two  
18 blocks to the right, it asked what actually  
19 happened.

20 Do you see that?

21 A. Yes.

22 Q. And it says, "The controlled  
23 substance manual and the dispensing  
24 guidelines have been written and are in draft  
25 form."

1 Do you see that?

2 A. Yes.

3 MR. KOBRIN: Object to form.

4 QUESTIONS BY MR. GADDY:

5 Q. And if you go down to the  
6 bottom of the page under Team Member  
7 Comments, it looks like you write, "The  
8 original June 30th deadline for rollout to  
9 the stores was not achieved. However, the  
10 plan has been revised to present to the PDLs  
11 by July 2013 and to introduce to the pharmacy  
12 managers at the annual meetings which are  
13 tentatively scheduled for September."

14 Correct?

15 A. Yes.

16 Q. So from July of 2012 through  
17 June of 2013, one of the tasks that you were  
18 working on was developing the controlled  
19 substance dispensing guidelines, correct?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: This document,  
22 yes.

23 QUESTIONS BY MR. GADDY:

24 Q. Okay. And this was going to be  
25 the first time that this material had been

1 put in writing into a formalized guideline  
2 that would be presented to the PDLs and the  
3 pharmacy managers, correct?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: In this  
6 formalized manner.

7 QUESTIONS BY MR. GADDY:

8 Q. Did you present this policy to  
9 the PDLs in July of '13 and the pharmacy  
10 managers in September?

11 A. Yes.

12 (Chunderlik Exhibit 4 marked  
13 for identification.)

14 QUESTIONS BY MR. GADDY:

15 Q. Let's look at P-HBC-28, which  
16 is going to be your Tab Number 10,  
17 Mr. Chunderlik.

18 A. Yes.

19 Q. And is this the controlled  
20 substance dispensing guideline that you  
21 developed in 2013?

22 A. Yes.

23 MR. KOBRIN: Take the time to  
24 look at it and make sure it is what  
25 you think it is and you're comfortable

1 with it. If you need to.

2 QUESTIONS BY MR. GADDY:

3 Q. This is the guideline you  
4 developed in 2013, Mr. Chunderlik?

5 It looks like it's got the date  
6 on the bottom left-hand side of the page,  
7 7/12/13?

8 A. 7/22/2013.

9 Q. Yes, thank you.

10 A. Yes.

11 Q. We're looking at it? We're at  
12 the right document?

13 A. Yes.

14 Q. Okay. Let's go up to the top  
15 of the page and look at the purpose.

16 It indicates that the purpose  
17 is "to provide guidelines for the proper  
18 dispensing of controlled substances that  
19 support the corresponding responsibility  
20 mandate placed upon pharmacists to exercise  
21 due diligence in the decision to fill or not  
22 to fill a controlled substance prescription."

23 Did I read that correctly?

24 A. Yes.

25 Q. And again, despite the fact

1     that this guideline is just coming out in  
2     2013, pharmacists have always had that  
3     obligation, correct?

4                     MR. KOBRIN:   Object to form.

5                     Assumes facts not in evidence.

6                     He's told you that -- {audio  
7                     interruption}.

8     QUESTIONS BY MR. GADDY:

9             Q.       Did you say --

10                    MR. KOBRIN:   -- Jeff.

11     QUESTIONS BY MR. GADDY:

12             Q.       Did you say yes,  
13     Mr. Chunderlik?  I couldn't hear you.

14             A.       Could you just repeat that  
15     again?

16             Q.       Sure.

17                    I said, despite the fact that  
18     this policy or this guideline is coming out  
19     in 2013 talking about one of the purposes of  
20     the policy being to support the corresponding  
21     responsibility mandate on pharmacists, that's  
22     a responsibility and a mandate that's been  
23     there for many, many years, correct?

24                    MR. KOBRIN:   Object to form.

25                    THE WITNESS:  To my knowledge,

1           yes.

2       QUESTIONS BY MR. GADDY:

3           Q.       And then in the middle of the  
4       page there you have a substance where you  
5       talk about the corresponding responsibility  
6       that applies to the pharmacists, correct?

7           A.       Yes.

8           Q.       Okay. And we've already talked  
9       about that a little bit, so I'm going to keep  
10      going. And about halfway down the page  
11      there's a section that says, "Ensure the  
12      validity of the controlled substance  
13      prescription."

14                   Correct?

15          A.       Yes.

16          Q.       And is it fair to say that some  
17      of these requirements deal with the legal  
18      aspect of the corresponding responsibility as  
19      far as making sure that the doctor is  
20      licensed, the doctor is registered with the  
21      DEA to write prescriptions for certain drugs  
22      and those types of things?

23                   MR. KOBRIN: Object to form.

24                   George, take the time to read  
25      over whatever you think you need to

1 check before you answer a question  
2 related to what these are about.

3 THE WITNESS: And could you  
4 restate your question?

5 QUESTIONS BY MR. GADDY:

6 Q. Sure.

7 Fair to say that some of these  
8 requirements dealing with the validity of the  
9 controlled substance relate to the legal  
10 aspect of corresponding responsibility as far  
11 as ensuring that the doctor is properly  
12 licensed, properly registered with the DEA  
13 and things of that nature?

14 A. Yes, several -- yes, several of  
15 the bullet points, bullets -- specifically  
16 bullet point 5.

17 Q. And do you agree,  
18 Mr. Chunderlik, that it's important for a  
19 Giant Eagle pharmacist, but frankly for any  
20 pharmacist, to have an understanding and an  
21 appreciation that the prescriber whose  
22 prescription they are looking to fill is  
23 legitimate?

24 MR. KOBRIN: Object to form.

25 THE WITNESS: Yeah, I would

1 agree with that.

2 QUESTIONS BY MR. GADDY:

3 Q. And you would agree that it's  
4 pretty essential that the pharmacist have an  
5 understanding that the doctor for whom  
6 they're filling a prescription is somebody  
7 who's acting in good faith and acting  
8 pursuant to their medical license and those  
9 types of things?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: Yes, they would  
12 have a responsibility to do that.

13 QUESTIONS BY MR. GADDY:

14 Q. Okay. And but -- and I  
15 appreciate that, but it's not necessarily  
16 that it's their responsibility.

17 But would you agree with me  
18 that one factor that could lead to either  
19 drugs being diverted or pills like opioids  
20 ending up in the wrong hands would be if you  
21 had a doctor who was not prescribing opioids  
22 the way that they should be? Is that fair?

23 MR. KOBRIN: Object to form.

24 Vague.

25 THE WITNESS: That's different

1 from what you asked me before.

2 QUESTIONS BY MR. GADDY:

3 Q. And it was intended to be.

4 Do I need to ask it again or...

5 A. Yes.

6 Q. Would you agree with me that  
7 one thing that pharmacists should be aware of  
8 and be cognizant of is the fact that the  
9 prescriber for whom they're filling an opioid  
10 prescription is operating in good faith,  
11 doing things the right way, issuing  
12 prescriptions for causes and conditions that  
13 they should be issuing those prescriptions  
14 for?

15 MR. KOBRIN: Object to form.  
16 Confusing, vague and misrepresents  
17 facts and the law, who they're filling  
18 the prescription for.

19 THE WITNESS: Can you repeat  
20 that question one more time?

21 QUESTIONS BY MR. GADDY:

22 Q. Mr. Chunderlik, maybe I'm  
23 overcomplicating this.

24 Do you agree that it's pretty  
25 important that the pharmacist have an

1 understanding that the doctor is operating  
2 within the law when it comes to issuing  
3 prescriptions?

4 A. They have a responsibility to  
5 ensure that the prescription is a valid  
6 prescription for a -- for a legitimate  
7 medical purpose, if that's what you're asking  
8 me.

9 Q. Somewhat, and I appreciate  
10 that.

11 And you agree that it could be  
12 a pretty big problem if a pharmacist is  
13 dealing with a doctor who's running a pill  
14 mill or filling prescriptions they shouldn't  
15 be filling or things of that nature, correct?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: I think that's  
18 different from what you were asking me  
19 before.

20 QUESTIONS BY MR. GADDY:

21 Q. I understand, Mr. Chunderlik,  
22 and not every question is going to be the  
23 same. So it was intended to be a different  
24 question.

25 So do you agree it would be a

1     pretty big problem if a pharmacist is dealing  
2     with a doctor who is running a pill mill,  
3     issuing prescriptions for people they  
4     shouldn't be issuing them for, that they  
5     don't have a legitimate medical need for the  
6     prescription? You agree that would be a big  
7     problem?

8                     MR. KOBRIN: Object to form.

9                     THE WITNESS: It may be a  
10                    potential for a big problem. I don't  
11                    know how a pharmacist would know that  
12                    a doctor is running a pill mill or  
13                    anything like that.

14     QUESTIONS BY MR. GADDY:

15             Q.        Okay. But if they did, if they  
16     had reason to believe or reason to be  
17     cognizant, that's something you would want  
18     your pharmacists to take note of, correct?

19                     MR. KOBRIN: Object to form.

20                     THE WITNESS: Yes, we would.

21                     (Chunderlik Exhibit 5 marked  
22                    for identification.)

23     QUESTIONS BY MR. GADDY:

24             Q.        We're not going to completely  
25     leave this document, so keep it handy. But

1 we're going to look real quick at P-HBC-23,  
2 which is Tab Number 5.

3 And, Mr. Chunderlik, this is an  
4 e-mail, and there is a link embedded in this  
5 e-mail. And last night I sent to your  
6 counsel, and he tells me he sent to you, an  
7 article that was included in that link.

8 Do you know what I'm talking  
9 about here?

10 A. Yes.

11 Q. Okay. So we're going to look  
12 at the e-mail first, and then we'll go to the  
13 article.

14 A. Okay.

15 Q. And if you would, tell me  
16 when -- you got the e-mail in front of you?

17 A. I do, yes.

18 Q. Okay. Let's go to the bottom  
19 of the first page and read this  
20 chronologically.

21 Okay?

22 A. Okay.

23 Q. And it looks like this is an  
24 e-mail that's sent on February 23, 2016, and  
25 the e-mail is from a pharmacy team leader,

1 correct?

2 A. Yes.

3 Q. Does that mean that's a  
4 pharmacist at the -- at a particular pharmacy  
5 store?

6 A. Yes.

7 Q. Okay.

8 A. Yes.

9 Q. And the subject is to -- it  
10 says Dr. Letizio, and the e-mail is written  
11 to Chris Miller, right?

12 A. Yes.

13 Q. And what's your understanding  
14 of Chris Miller's role at this point in time?

15 A. At this point in time, I  
16 believe Chris was the pharmacy district  
17 leader for this store.

18 Q. Okay. And this particular  
19 pharmacist, it looks like her name is  
20 Michelle. She writes to Chris and says,  
21 "Dr. Letizio, a local pain management doctor,  
22 is being investigated by the DEA. Is it okay  
23 to fill scripts from him still, assuming  
24 everything else looks legit?"

25 Do you see that?

1           A.       Yes.   Yes.

2           Q.       Okay.   And then if you go to  
3   the next page, do you see that she's also  
4   included within her e-mail a link?

5           A.       Yes, I see that.

6           Q.       Okay.   And so what I did there  
7   was I pulled up the story of that link.

8                    So you have the article that  
9   would be -- that we sent you last night?

10          A.       Yes.

11          Q.       Okay.

12          A.       Yes.

13          Q.       And you see at the very bottom  
14   of the page, we see the same link there for  
15   the article?

16          A.       Yes.

17                   MR. KOBRIN:   Objection.

18   QUESTIONS BY MR. GADDY:

19          Q.       And you see the title of this  
20   article is, "Attorney General's Office  
21   investigating Erie doctor"?

22                   Correct?

23          A.       Yes.

24          Q.       And this e-mail was sent to  
25   Chris Miller, and this article, the link to

1     this article, was included in that e-mail,  
2     right?

3                     MR. KOBRIN:   Object to form.

4                     To the extent you can confirm  
5             that, George, you're free to answer.

6                     THE WITNESS:   It looks like it  
7             is.

8     QUESTIONS BY MR. GADDY:

9             Q.       Okay.  And let's look at a  
10    little bit of the article.  We'll look at the  
11    first paragraph.  It says, "The Attorney  
12    General's Office is investigating a local  
13    doctor.  The physician is under investigation  
14    for allegedly having workers forge  
15    prescriptions, falsifying patient records and  
16    having inappropriate relations with a  
17    patient."

18                    Did I read that correctly?

19             A.       Yes.

20             Q.       And skip down and read the  
21    third, fourth and fifth paragraphs.

22             A.       Okay.

23             Q.       It says, "Dr." --

24                    MR. KOBRIN:  Well, if you're  
25    going to skip paragraphs, I just want

1           to make sure that George is  
2           comfortable that he's read what he  
3           needs to read in the skipped-over  
4           paragraphs.

5                       MR. GADDY: Thanks, Josh.

6       QUESTIONS BY MR. GADDY:

7           Q.       You see here, Mr. Chunderlik,  
8       it says, "Dr. Anthony Letizio is a doctor of  
9       internal medicine specializing in pain  
10      management."

11                    Do you see that?

12           A.       Yes.

13           Q.       It says, "The AG's office  
14      served a search warrant at his office at 24th  
15      and State Street on February 11th. They had  
16      several leads, listing 54 circumstances in  
17      their request for a search warrant, one of  
18      them from a local Rite Aid pharmacy after  
19      Dr. Letizio prescribed Schedule II narcotics  
20      for himself, along with his 12 and  
21      16-year-old children."

22                    Do you see that?

23           A.       Yes.

24           Q.       Does that activity raise any  
25      flags for you, Mr. Chunderlik?

1 MR. KOBRIN: Object to form.

2 Vague.

3 THE WITNESS: It's surprising  
4 to me that a doctor would act in this  
5 manner.

6 QUESTIONS BY MR. GADDY:

7 Q. Okay. Would you agree it's not  
8 appropriate behavior for a doctor when it  
9 comes to Schedule II prescriptions?

10 A. It's not appropriate behavior  
11 with any prescription.

12 Q. The very bottom of -- skip one  
13 more line. It says, "Police are being led to  
14 believe that he also prescribed a patient  
15 unnecessary powerful painkillers."

16 Do you see that?

17 A. Yes.

18 Q. Schedule II opioids are  
19 powerful painkillers, right, Mr. Chunderlik?

20 MR. KOBRIN: Object to form.

21 Seeks expert testimony. Vague.

22 THE WITNESS: They're  
23 painkillers. They're controlled  
24 substances.

25

1 QUESTIONS BY MR. GADDY:

2 Q. Well, they're powerful  
3 painkillers, right?

4 MR. KOBRIN: Object to form.  
5 Vague.

6 THE WITNESS: Powerful, how --  
7 what do you mean by powerful?

8 QUESTIONS BY MR. GADDY:

9 Q. Are there more painful power --  
10 excuse me. Are there more powerful  
11 painkillers than Schedule II opioids?

12 MR. KOBRIN: Object to form.  
13 Seeks expert testimony.

14 THE WITNESS: Yes, I'm not an  
15 expert, and I can't assume that to be  
16 true.

17 QUESTIONS BY MR. GADDY:

18 Q. As a pharmacist, do you agree  
19 with me that opioids, Schedule II opioids,  
20 are powerful painkillers?

21 MR. KOBRIN: Object to form.  
22 Vague.

23 THE WITNESS: Again, they --  
24 you know, powerful means different  
25 things to different people. They

1           are -- they are -- Schedule II  
2           painkillers are used for -- to  
3           regulate or to treat pain for patient.

4                   I guess the word "powerful" can  
5           mean different things to different  
6           people.

7   QUESTIONS BY MR. GADDY:

8           Q.       And I appreciate that,  
9   Mr. Chunderlik, and that's why I'm asking  
10   you, because I want to know your perspective  
11   as a person who has been a pharmacist with  
12   Giant Eagle for over a decade, a person who's  
13   been the manager of pharmacy training for  
14   Giant Eagle pharmacists and techs, and the  
15   person who's been a manager of pharmacy  
16   compliance for Giant Eagle.

17                   Do you or do you not agree that  
18   Schedule II opioids are powerful painkillers?

19                   MR. KOBRIN: Object to form.

20                   Asked and answered, and vague and  
21           confusing.

22                   THE WITNESS: They're more  
23           powerful than other painkillers or  
24           other drugs that are used to treat  
25           pain. They are more power -- they can

1 be more powerful.

2 QUESTIONS BY MR. GADDY:

3 Q. I'm going to go down below the  
4 ad to the line that starts, "Police believe."

5 It's on the second page.

6 A. Oh, okay.

7 Q. Sorry.

8 MR. KOBRIN: If you need to  
9 read the intervening paragraphs,  
10 George, take the time to do that.

11 QUESTIONS BY MR. GADDY:

12 Q. You with me, Mr. Chunderlik?

13 A. I want to read the two  
14 paragraphs before, before I go on.

15 Q. You with me now?

16 A. Yes.

17 Q. It says, "Police believe  
18 Dr. Letizio had his office manager write  
19 patients prescriptions and forge his  
20 signature on those scripts. She does not  
21 have medical clearances to see patients or  
22 write prescriptions."

23 Do you see that?

24 A. Yes.

25 Q. Do you agree those are pretty

1 shocking allegations against this doctor?

2 MR. KOBRIN: Object to form.

3 THE WITNESS: I don't know why  
4 a doctor would let somebody do that.

5 QUESTIONS BY MR. GADDY:

6 Q. You would agree that's totally  
7 inappropriate for a doctor to do, correct?

8 A. I don't think it's appropriate.

9 Q. You agree that any  
10 prescriptions that were forged by his office  
11 manager are inappropriate, illegitimate  
12 prescriptions?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: Any prescription  
15 forged by somebody other than the  
16 physician are inappropriate.

17 QUESTIONS BY MR. GADDY:

18 Q. Because I'm saying the police  
19 also think Dr. Letizio had his girlfriend,  
20 who was a physician's assistant, forge his  
21 name on patient prescriptions, right?

22 A. Yes.

23 Q. Again, same answer there:  
24 That's also inappropriate, true?

25 A. Yes.

1           Q.       If you skip down a couple  
2 paragraphs, there's some allegations about  
3 inappropriate behavior with patients, which I  
4 don't know that we need to get into here, but  
5 then there's a paragraph that starts out,  
6 "Texts."

7                   Do you see that? "Texts in  
8 which that manager"?

9           A.       Yes.

10          Q.       It says, "Texts in which that  
11 manager on several different dates asks the  
12 doctor medical advice for patients while he  
13 was out of the office. According to police  
14 findings in the search warrant, he responded  
15 with directions on what and how to prescribe  
16 patients."

17                   Do you see that?

18          A.       Yes.

19          Q.       Do you understand that the  
20 police had in the warrant and this pub --  
21 this publication included within the e-mail  
22 specific allegations that there were text  
23 messages between the doctor and a  
24 nonphysician where the doctor was telling the  
25 nonphysician how to prescribe pills for

1 patients?

2 MR. KOBRIN: Object to form.

3 I'm not sure he can testify to whether  
4 this is an accurate representation in  
5 an article, what was in a search  
6 warrant, which he has no firsthand  
7 knowledge of.

8 MR. GADDY: Thanks, Josh.

9 QUESTIONS BY MR. GADDY:

10 Q. You see that's what it says in  
11 this article, Mr. Chunderlik?

12 MR. KOBRIN: You can testify to  
13 what it says in the article, George.

14 THE WITNESS: Yes, I do see  
15 what it says in the article.

16 QUESTIONS BY MR. GADDY:

17 Q. And this is the article that  
18 Michelle, the pharmacist at this particular  
19 store, said to Chris Miller, correct?

20 A. Yes.

21 Q. Let's go back to the e-mail.  
22 And you see in the middle of  
23 the page, it looks like Chris responds to  
24 Michelle, and he also copies you and your  
25 supervisor, Joe Millward, right?

1           A.       Yes.

2           Q.       And he says, "Hi, Michelle, I  
3 would strongly encourage completing due  
4 diligence on each prescription from his  
5 office."

6                    Correct?

7           A.       Yes.

8           Q.       Okay. He doesn't tell her to  
9 stop filling prescriptions from that doctor,  
10 does he?

11          A.       No.

12          Q.       He just says to encourage  
13 completing due diligence on those  
14 prescriptions, right?

15                   MR. KOBRIN: Object to form.

16                   THE WITNESS: Yes.

17       QUESTIONS BY MR. GADDY:

18          Q.       And, I mean, tell me if I'm  
19 wrong, Mr. Chunderlik, but I think under your  
20 controlled substance dispensing guidelines  
21 Giant Eagle pharmacists are supposed to  
22 complete due diligence on any Schedule II  
23 prescription that's presented to them, right?

24          A.       Yes.

25          Q.       All right. So completing due

1 diligence on a prescription is the same thing  
2 that should be done with every controlled  
3 substance prescription that's presented at a  
4 Giant Eagle pharmacy, right?

5 MR. KOBRIN: Object to form.

6 Asked and answered.

7 THE WITNESS: I stand by my  
8 previous answer.

9 QUESTIONS BY MR. GADDY:

10 Q. Because I understand that  
11 only -- Chris tells Michelle, "only fill  
12 those prescriptions that meet diligence."

13 Do you see that?

14 A. Yes.

15 Q. Is there ever a time that Giant  
16 Eagle pharmacists are supposed to fill  
17 prescriptions that don't meet diligence?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: I don't believe  
20 that's what Chris was implying there.

21 QUESTIONS BY MR. GADDY:

22 Q. I'm not saying that he is. I'm  
23 just asking a question.

24 Is there ever a time that Giant  
25 Eagle pharmacists are supposed to fill

1 prescriptions that do not meet diligence?

2 MR. KOBRIN: Object to form.

3 Vague as to "meet diligence."

4 THE WITNESS: What do you mean  
5 by -- what do you mean by "meet  
6 diligence"?

7 QUESTIONS BY MR. GADDY:

8 Q. Mr. Chunderlik, I'm asking you  
9 about an e-mail that you were included on.

10 A. Uh-huh.

11 Q. What Mr. Miller is saying here  
12 is, only fill those prescriptions that meet  
13 diligence.

14 Tell me if I'm wrong, but from  
15 my perspective, that should be the case every  
16 single time a controlled substance  
17 prescription is issued or presented at a  
18 Giant Eagle pharmacist -- pharmacy.

19 Is that true?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: They should only  
22 be filled if the pharmacist has  
23 confidence that the prescription is  
24 being issued by a licensed prescriber  
25 in the -- in his prescriber -- within

1           his prescribing authority and for a  
2           legitimate medical purpose, if that's  
3           what you're asking me.

4   QUESTIONS BY MR. GADDY:

5           Q.       It is.

6                    That's always the rule, right?

7           A.       Yes.

8           Q.       So when leadership, the PDL,  
9   Mr. Miller, is presented with a question from  
10   a pharmacist that includes a link to an  
11   article stating that the doctor is having  
12   inappropriate activities with his patient,  
13   that he's writing Schedule II prescriptions  
14   for himself and his children, and when he's  
15   allowing his office manager and his  
16   girlfriend to write and forge prescriptions,  
17   the direction given to this pharmacist by  
18   Mr. Miller was to continue filling  
19   prescriptions from his office as long as they  
20   met due diligence, correct?

21                   MR. KOBRIN:   Object to form.

22                    You want him to tell you what  
23           the e-mail says?   He didn't write  
24           this, Jeff.

25                   THE WITNESS:   As Josh said, I

1           didn't write this e-mail, so I'm not  
2           sure what Chris Miller -- what was  
3           going through Chris Miller's mind when  
4           he wrote this e-mail.

5       QUESTIONS BY MR. GADDY:

6           Q.       Well, Mr. Chunderlik, I  
7       appreciate that your lawyer's suggesting how  
8       you answer the questions.

9                   MR. KOBRIN:   Objection.

10      QUESTIONS BY MR. GADDY:

11           Q.       I suggest that you just listen  
12      to me and answer the questions that I ask.

13                   Okay.   Mr. Chunderlik?

14                   My question to you is:   When  
15      this pharmacist presents to her superior,  
16      Chris Miller, and says, should we keep  
17      filling prescriptions for this doctor, he's  
18      having inappropriate relationships with  
19      patients, he's writing scripts for himself  
20      and his minor children, he's allowing his  
21      office manager and his girlfriend to write  
22      prescriptions and forge his name, the  
23      direction given to that pharmacist was not,  
24      cut this doctor off, not refuse those  
25      prescriptions.

1                   The direction that was given to  
2   that pharmacist was, you can keep filling his  
3   prescriptions as long as they meet diligence.

4                   Correct?

5                   MR. KOBRIN: Object to form.

6                   Misrepresents the document.

7                   Misrepresents prior testimony.

8                   Completely misrepresents all portions  
9   of the document.

10                  QUESTIONS BY MR. GADDY:

11                  Q.       Go ahead, Mr. Chunderlik.

12                  A.       I don't think that's what Chris  
13   Miller was implying here, to only -- to keep  
14   on filling prescriptions.

15                        There could have been  
16   prescriptions, legitimate prescriptions,  
17   coming from this physician's office. And  
18   Chris was -- in my mind, as I read this, felt  
19   that, you know, if Michelle could verify that  
20   these prescriptions were for a legitimate  
21   medical purpose for patients, that it would  
22   be appropriate for her to fill those types of  
23   prescriptions if she knew that those  
24   prescriptions were for a legitimate medical  
25   purpose, written by a doctor who was only

1 under investigation.

2 Q. The fact that a doctor is under  
3 investigation by DEA for allowing his office  
4 manager to forge prescriptions, his  
5 girlfriend to forge prescriptions, and the  
6 other things we saw in that article, is not,  
7 under Giant Eagle policy, a reason to refuse  
8 prescriptions from a doctor, true?

9 MR. KOBRIN: Object to form.

10 Vague and confusing.

11 THE WITNESS: No. If they --  
12 if they were legitimate prescriptions  
13 written by that doctor, there's no  
14 reason why -- if they were legitimate  
15 prescriptions written for a valid  
16 medical purpose by that doctor,  
17 there's no reason why -- why -- he's  
18 under investigation. His license  
19 hasn't been sanctioned or -- at that  
20 point in time or anything like that.

21 Because a pharmacist who's  
22 doing their due diligence to show that  
23 the prescription was written -- with  
24 everything within their power to make  
25 sure that that prescription was

1           written by the physician, that that  
2           would -- they could still fill that  
3           prescription.

4   QUESTIONS BY MR. GADDY:

5           Q.       Keep filling the prescriptions,  
6   keep taking money from patients as long as --

7           A.       Not keep filling -- not keep  
8   filling prescriptions. Understanding that  
9   they had to be valid prescriptions written by  
10   the physician for a legitimate medical  
11   purpose for legitimate patients.

12                   There's no way of knowing  
13   within here whether -- who was bringing those  
14   prescriptions in without checking on them.

15                   If we were checking on them and  
16   Michelle had a comfort level that it was for  
17   a legitimate medical purpose for a patient  
18   who needed that prescription written by a  
19   doctor who still had a medical license and it  
20   wasn't suspended, this is -- this was -- this  
21   just came out in a news article. He hadn't  
22   been suspended at that point in time.

23                   If he still had prescription --  
24   there may have still been patients,  
25   legitimate patients, that he was prescribing

1 for.

2 Q. So no problem to continue  
3 filling his prescriptions, even though he's  
4 under investigation by the DEA --

5 A. There --

6 MR. KOBRIN: Stop. Object to  
7 the form. Inappropriate.  
8 Misrepresenting his testimony. Asked  
9 and answered.

10 QUESTIONS BY MR. GADDY:

11 Q. That's right, Mr. Chunderlik?

12 A. I gave you my answer. If they  
13 were legitimate prescriptions and the  
14 pharmacist had done their diligence to ensure  
15 that it was a legitimate prescription,  
16 written by this doctor for a legitimate  
17 medical purpose, and he still had a license  
18 to prescribe, you know, we wouldn't -- there  
19 was no reason to -- in my mind to shut that  
20 doctor off completely until all the facts  
21 came out.

22 Q. The fact that he was under  
23 investigation by DEA for the different items  
24 that you've told us five, six, seven minutes  
25 ago were completely inappropriate, that was

1 just one factor for the pharmacist to  
2 consider, right?

3 MR. KOBRIN: Object to form.

4 Asked and answered.

5 You're referencing a newspaper  
6 article, Jeff.

7 THE WITNESS: Alls I -- you  
8 know, from what I see on -- in this  
9 article, he was being investigated for  
10 certain situations for specific  
11 patients. They mentioned his two  
12 daughters. You know, that's as far as  
13 they go in there.

14 And I don't know -- you know,  
15 it's hard to tell from this article  
16 exactly how often this had occurred  
17 and if there -- if there were  
18 legitimate prescriptions being written  
19 for legitimate patients for a  
20 legitimate medical need from a doctor  
21 who still had a license, this -- this  
22 would just cause us to really take a  
23 closer -- you know, a look at every  
24 single -- this is just pointing out to  
25 take a closer look at every single

1           prescription this doctor wrote.

2                   But to completely shut him off  
3           at this point in time? There may be  
4           patients that, you know, were -- that  
5           he was treating that needed those --  
6           needed prescriptions.

7                   But the article only talks  
8           about two specific situations where he  
9           wrote prescriptions by people that  
10          presumably were his offspring.

11   QUESTIONS BY MR. GADDY:

12           Q.       Well, to be fair,  
13   Mr. Chunderlik, it talks about him allowing  
14   his office manager to write prescriptions  
15   when she's not licensed. It talks about his  
16   girlfriend writing prescriptions on -- under  
17   his name, forging his name when she's not  
18   licensed. It references text messages when  
19   the doctor was out of the office where he's  
20   giving guidance to his office manager on how  
21   to write prescriptions and what meds to write  
22   for.

23                   So it's a little bit more than  
24   just writing prescriptions for his two  
25   children. Would you agree with me?

1 MR. KOBRIN: There's no  
2 question there. But also, you didn't  
3 read any of those text messages.

4 If you want to talk about them,  
5 at least give Mr. Chunderlik an  
6 opportunity to read the messages as  
7 well as the remainder of the article.

8 THE WITNESS: The fact still  
9 remains that he may have had  
10 legitimate patients that he himself  
11 was writing prescriptions for.

12 QUESTIONS BY MR. GADDY:

13 Q. I totally understand. I  
14 totally understand, Mr. Chunderlik.

15 So I'm ready to move on here,  
16 but I'm just trying to make clear --

17 A. The article does not say every  
18 single prescription that he wrote were --  
19 every single prescription that had his name  
20 on it was not written by him. It does not  
21 say that. It says --

22 MR. KOBRIN: Let Jeff ask you a  
23 question.

24 THE WITNESS: Sorry.  
25

1 QUESTIONS BY MR. GADDY:

2 Q. No, you're fine,  
3 Mr. Chunderlik.

4 The fact that there were these  
5 allegations included in this article that  
6 were sent to Chris, that were included in the  
7 e-mail that you and Mr. Miller were on, that  
8 fact alone was not enough for Giant Eagle to  
9 say, don't fill any prescriptions for this.

10 You were concerned that there  
11 may still be legitimate prescriptions, and so  
12 the guidance given to your pharmacists, or  
13 Giant Eagle pharmacists, was to continue  
14 filling prescriptions if they met due  
15 diligence. True?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: As long as they  
18 were, under due diligence, valid legal  
19 prescriptions written for a valid  
20 medical purpose by a doctor who still  
21 had a license to prescribe.

22 QUESTIONS BY MR. GADDY:

23 Q. Even though that doctor was  
24 being investigated by the DEA?

25 MR. KOBRIN: Object to form.

1           Asked and answered. Badgering the  
2           witness.

3                   THE WITNESS: He still had a  
4           license to -- at this point in time  
5           his license was still active. It was  
6           under investigation, but it was not  
7           suspended.

8                   (Chunderlik Exhibit 6 marked  
9           for identification.)

10          QUESTIONS BY MR. GADDY:

11                Q.       Mr. Chunderlik, we're going to  
12          look at P-HBC-24. It should be your Tab  
13          Number 6.

14                   Let me know when you're there.

15                A.       Yes, I have it.

16                Q.       And it looks like -- we're  
17          going to start in the middle of the page. It  
18          looks like this is another e-mail from a  
19          pharmacist.

20                   It says, "Pharmacy team  
21          leader," and it's sent on September 6, 2016,  
22          correct?

23                A.       Yes.

24                Q.       And this e-mail is sent  
25          directly to you with some other folks copied,

1 right?

2 A. Yes.

3 Q. The subject is "Lighthouse  
4 Medical."

5 True?

6 A. Yes.

7 Q. It says, "I have a  
8 question/concern regarding prescriptions  
9 ordered with the Lighthouse Medical practice.  
10 They are a pain clinic, and all they  
11 prescribe are narcotics."

12 Do you see that?

13 A. Yes.

14 Q. That would include opioids,  
15 right?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: I don't  
18 necessarily know. All narcotics are  
19 not necessarily opioids.

20 QUESTIONS BY MR. GADDY:

21 Q. Well, Mr. Chunderlik, we're  
22 talking about a pain clinic where the  
23 pharmacist is saying all they do is prescribe  
24 narcotics.

25 You agree they're going to be

1     talking about opioids in there?

2                     MR. KOBRIN:   Object to form.

3                     Asked and answered.

4                     THE WITNESS:   My answer is  
5                     still the same.

6     QUESTIONS BY MR. GADDY:

7             Q.       Okay.  It says, "Last night on  
8     our local news, there was a story about one  
9     of their physicians, Dr. Johnson, being  
10    charged with fraudulent billing.  They  
11    referenced him as being one of 15 involved."

12                    Do you see that?

13             A.       Yes.

14             Q.       It says, "They didn't specify  
15    if the other physicians are from that  
16    practice, but last week we had an insurance  
17    issue with a different doctor, Dr. Ranieri,  
18    in their practice being shut off from Gateway  
19    as a provider."

20                    Do you see that?

21             A.       Yes.

22             Q.       She goes on to say, "I realize  
23    these aren't issues with controlled substance  
24    prescribing, but my question is, if they're  
25    shady in one way, should we be comfortable

1 filling prescriptions from them at all?  
2 Especially given the nature of drugs they  
3 prescribe."

4 Do you see that?

5 A. Yes.

6 Q. Is that a concern for Giant  
7 Eagle, if they had a pain clinic where 15 of  
8 the individuals at the pain clinic are being  
9 investigated for fraudulent billing related  
10 to narcotic prescriptions?

11 MR. KOBRIN: Object to form.  
12 Misrepresents the evidence. There's  
13 nothing about the 15 being --

14 MR. GADDY: Josh, stop talking,  
15 man. Make your objection. Quit  
16 coaching the witness. Quit coaching  
17 the witness.

18 You can state the basis for  
19 your objection and that's it. You're  
20 coaching him. All day long you've  
21 been coaching him. All day long I'm  
22 hearing back from him exactly what  
23 you're saying.

24 State "objection," state the  
25 one-word basis, and then be quiet,

1           please.

2                       MR. KOBRIN: In this exact  
3           circumstance, Special Master Cohen has  
4           said that it's appropriate to explain  
5           the 106 objection.

6                       You're misrepresenting the  
7           document. If you're going to  
8           misrepresent the evidence to my  
9           client, I am going to clarify the  
10          record and I am going to clarify the  
11          evidence.

12                      There's a specific order in  
13          this case from Special Master Cohen  
14          regarding plaintiffs' lawyers  
15          misrepresenting exhibits and our right  
16          to explain the objection.

17                      I think I've been more than  
18          fair. I think I have not coached the  
19          witness at all.

20                      But that's my reason, and  
21          that's why I'm going to state that in  
22          this particular circumstance.

23                      You can proceed. If you're  
24          going to challenge my objection in  
25          that confrontational manner, I want to

1 explain why I'm doing it in this  
2 particular instance.

3 You can go ahead, George.

4 THE WITNESS: Could we just  
5 review what -- the question that was  
6 asked?

7 QUESTIONS BY MR. GADDY:

8 Q. Mr. Chunderlik, is it an issue  
9 for Giant Eagle if they are told by one of  
10 their pharmacists that a pain clinic has over  
11 15 individuals being investigated for  
12 fraudulent billing?

13 MR. KOBRIN: Object to form.  
14 Misrepresents the evidence.

15 THE WITNESS: I don't  
16 necessarily know in what I'm reading  
17 is what is being meant by being  
18 charged with fraudulent billing.

19 Fraudulent billing, I'm not  
20 necessarily sure, has anything to do  
21 with prescribing.

22 QUESTIONS BY MR. GADDY:

23 Q. And, Mr. Chunderlik, I'm not  
24 suggesting it does.

25 I'm asking you essentially the

1 same question that the pharmacist is asking  
2 you.

3 If you have this pain clinic  
4 with over 15 individuals who, according to  
5 your pharmacist, are shady in one way, from  
6 Giant Eagle's perspective, are they  
7 comfortable filling opioid prescriptions for  
8 those doctors.

9 Does it cause any issues for  
10 Giant Eagle? That's my question to you.

11 MR. KOBRIN: Object to form.

12 THE WITNESS: I don't know that  
13 they --

14 MR. KOBRIN: Object to form.

15 Hold on, George, please.

16 Object to form. Still  
17 misrepresenting the evidence with  
18 regard to the 15 being involved.

19 QUESTIONS BY MR. GADDY:

20 Q. Go ahead, Mr. Chunderlik.

21 A. I don't know if this -- this  
22 was a concern for Giant Eagle because of  
23 fraudulent billing, having nothing to do with  
24 prescribing.

25 Q. I appreciate the two are

1 distinct.

2 My question is the same  
3 question the pharmacist had. If you have a  
4 pain -- a pain clinic who, according to your  
5 pharmacist, all they prescribe are narcotics,  
6 and you have this group, and they're shady in  
7 one way, is Giant Eagle comfortable filling  
8 prescriptions for them given the nature of  
9 the drugs they prescribe?

10 MR. KOBRIN: Object to form.

11 THE WITNESS: I don't know if I  
12 could go that far to say if they're  
13 shady in one way, they -- they have  
14 licenses to prescribe. I don't  
15 necessarily think being shady in one  
16 way means that they're shady in all  
17 ways.

18 QUESTIONS BY MR. GADDY:

19 Q. Let's go back to the policy,  
20 Mr. Chunderlik, that was your Tab Number 10,  
21 if you've flipped from it.

22 A. Okay. I have it up.

23 Q. Okay. What I want to do is go  
24 to page 2 of that policy. About two-thirds  
25 of the way down the page there's a heading

1     that says, "Appropriateness of Controlled  
2     Substance Prescriptions, Red Flags."

3                     Do you see that?

4             A.     Yes.

5             Q.     And under here it looks -- you  
6     can flip the page. It looks like there's ten  
7     items listed under the Red Flags section, and  
8     then there's another, I guess, what I'd call  
9     a sister section that says "Other Red Flags."

10                    Do you see that?

11            A.     Yes, I do.

12            Q.     Okay. So I want to go through  
13     a couple of these and ask you some questions  
14     about them.

15                    The first one on page 2 says,  
16     "Prescriptions written together for  
17     oxycodone/hydrocodone, plus a benzodiazepine,  
18     plus a muscle relaxer."

19                    Do you see that?

20            A.     Yes.

21            Q.     Do you recognize that to be a  
22     cocktail?

23                    Have you heard that phrase  
24     before?

25            A.     Yes.

1 Q. Okay. And what is a cocktail  
2 to you?

3 A. It's a drink.

4 Q. Let me ask the question a  
5 little bit better, Mr. Chunderlik.

6 In the context of a pharmacy  
7 setting, and specifically talking about  
8 controlled substances, what does a cocktail  
9 mean to you?

10 A. A combination of drugs.

11 Q. And would you agree with me  
12 that a pharmacist being presented with a  
13 prescription for a cocktail -- and when you  
14 say "a combination of drugs," you agree with  
15 this definition in the policy that you wrote,  
16 I assume, an opioid, a benzo and a muscle  
17 relaxer?

18 A. Yes.

19 MR. KOBRIN: Object to form.

20 QUESTIONS BY MR. GADDY:

21 Q. Would you agree with me that if  
22 a pharmacist at Giant Eagle is presented with  
23 a prescription for a cocktail, that that  
24 should be a major red flag?

25 A. It's a red flag.

1 Q. Do you agree with me that it's  
2 a major red flag?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: It's a red flag.

5 I don't necessarily know that I would  
6 call it a major red flag. I don't  
7 think that would be my terminology,  
8 but it's a -- it's a red flag.

9 QUESTIONS BY MR. GADDY:

10 Q. Okay. Do you agree, based on  
11 your experience as a practicing pharmacist  
12 and your former position of manager of  
13 pharmacy training and pharmacy compliance,  
14 that there's no legitimate medical use for a  
15 patient to have a simultaneous --  
16 prescriptions for an opiate, a benzo and a  
17 muscle relaxer?

18 MR. KOBRIN: Object to form.

19 Seeks inappropriate expert testimony.

20 Go ahead, George. If you  
21 understand, you can answer.

22 THE WITNESS: Well, they have  
23 three different -- they have three  
24 different uses.  
25

1 QUESTIONS BY MR. GADDY:

2 Q. Well, my question is a little  
3 bit different as opposed to whether or not  
4 they have independent uses.

5 But what I'm asking you is  
6 whether or not you'll agree that there's no  
7 legitimate medical use for a patient to have  
8 simultaneous prescriptions for an opiate, a  
9 benzo and a muscle relaxer; yes or no?

10 MR. KOBRIN: Same objection.

11 THE WITNESS: Well, a patient  
12 could be in pain, they could have  
13 anxiety, and they could have a pulled  
14 muscle that requires a muscle  
15 relaxant.

16 QUESTIONS BY MR. GADDY:

17 Q. So your answer is that there  
18 are --

19 A. You know, it --

20 MR. KOBRIN: Object to form.

21 Again --

22 THE WITNESS: I'm not a -- I'm  
23 not a medical doctor. These -- you  
24 know, they're for three specific  
25 reasons.

1 QUESTIONS BY MR. GADDY:

2 Q. Okay. So I just want to make  
3 sure I understand your position,  
4 Mr. Chunderlik.

5 Based on your history as a  
6 practicing pharmacist with Giant Eagle and  
7 the manager of compliance for a period of  
8 years at Giant Eagle, your position is is  
9 there may be circumstances in which it is  
10 appropriate for a patient to have  
11 prescriptions for these three drugs, opiate,  
12 benzo, muscle relaxer, all at the same time,  
13 correct?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: They're used for  
16 three specific -- three specific  
17 reasons. One's pain, one's anxiety,  
18 and one is used as a muscle relaxant.

19 QUESTIONS BY MR. GADDY:

20 Q. I understand that,  
21 Mr. Chunderlik, but that does not at all  
22 address the question I asked.

23 My question is whether or not  
24 you'll agree or disagree that it's  
25 appropriate for a patient to be taking all

1 three of these drugs at the same time.

2 MR. KOBRIN: Object to form.

3 Asked and answered. You've already  
4 asked him if it's a red flag.

5 THE WITNESS: Yeah, I don't  
6 know if it's -- I don't know if this  
7 combination -- it's hard for me to  
8 predict that this -- this combination  
9 would cause harm.

10 QUESTIONS BY MR. GADDY:

11 Q. Okay. Let's move on to the  
12 next one.

13 Number 2 says, "Lack of  
14 individualization of dosing."

15 Did I read that correctly?

16 A. Yes.

17 Q. Can you kind of in your own  
18 words explain to me what that red flag means?

19 A. Well, I point to the part  
20 that's in brackets, you know, "individualized  
21 according to the patient need using the --  
22 starting or using the lowest possible dose to  
23 treat the patient."

24 Q. Okay. I've seen this one  
25 explained before as -- along the lines of it

1 would be a problem or it would be a red flag  
2 if you had a prescriber that wrote the exact  
3 same medication for the exact same dosage for  
4 every patient.

5 Is what I just described how  
6 you see this one, or are we talking about  
7 different flags?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: No, that might be  
10 a better way to -- lack of individual  
11 dosing, I don't necessarily know if it  
12 means seeing the same prescription the  
13 exact same way. It may be. I'm not  
14 really sure.

15 QUESTIONS BY MR. GADDY:

16 Q. Okay. But you wrote the  
17 policy, right, Mr. Chunderlik, the guideline?

18 MR. KOBRIN: Object to form.

19 You're asking him about your  
20 interpretation of other policies.

21 THE WITNESS: It was used --  
22 part of these red flags were used from  
23 various sources.

24 QUESTIONS BY MR. GADDY:

25 Q. You put the guidelines

1 together, right, Mr. Chunderlik?

2 A. Not individually. There were  
3 other folks involved to help in the writing  
4 of this document.

5 Q. Okay. But it was assigned to  
6 you, correct?

7 A. It was one of the things that I  
8 would have led, but there were a group of  
9 people that helped to put this document  
10 together.

11 Q. And you were the one who rolled  
12 it out and presented it to the team, correct?

13 A. Yes.

14 Q. Do you know as you sit here  
15 today what pharmacists were supposed to be  
16 looking for under this second flag that you  
17 put into the controlled substance dispensing  
18 guidelines that you were responsible for?

19 A. I wrote this a while ago. I  
20 don't have a firm recollection of that.

21 Q. Okay. Let me ask this  
22 question, Mr. Chunderlik. If we're not  
23 exactly -- I'm going to go back to the  
24 example that I gave you. Okay?

25 Do you recall that? A doctor

1 writing the same script for the same patient  
2 and not differentiating based on patient  
3 need, do you remember that generally?

4 A. Yes.

5 Q. Okay. Can you help me  
6 understand what tool the pharmacist has as  
7 they are inputting a prescription into the  
8 PDX system to help them determine the  
9 prescribing habit for a particular doctor so  
10 that they can make a decision about the  
11 example that I gave, whether or not this  
12 doctor is writing the same script and dosage  
13 level for each patient?

14 MR. KOBRIN: Object to form.

15 THE WITNESS: I don't know --

16 MR. KOBRIN: Foundation. Facts  
17 not in evidence.

18 Go ahead, George.

19 THE WITNESS: I don't know that  
20 software has the ability to do that, a  
21 tool within the software.

22 QUESTIONS BY MR. GADDY:

23 Q. Okay. Outside of the software,  
24 what would be the tool that Giant Eagle has  
25 armed their pharmacists with to do some type

1 of investigation or make a determination  
2 about the prescribing practices of a  
3 particular doctor to make sure that they're  
4 not just writing the same script and same  
5 dosage level for every patient?

6 A. I don't know that there's a  
7 tool out there that would do what you're  
8 describing.

9 Q. Okay. Let's look at the next  
10 red flag that you included in the controlled  
11 substance dispensing guideline.

12 It says, "Multiple  
13 prescriptions for the strongest formulations  
14 of hydrocodone and alprazolam."

15 Do you see that?

16 A. Yes.

17 Q. Why did you include those two  
18 drugs in this guideline?

19 A. This -- this -- these  
20 particular guidelines may have been pulled  
21 from articles that I had seen written and  
22 things like that. I don't necessarily have a  
23 reason for that, but they may have been --  
24 because these -- these red flags would show  
25 up in various publications and in research

1     that we did as a group.

2             Q.       Any reason you didn't include  
3     oxycodone as a red flag? Multiple  
4     prescriptions for strong formulations of  
5     oxycodone?

6             A.       I don't have any recollection  
7     why I would or would not have done that.

8             Q.       Okay. But regardless, you did  
9     not include it, correct?

10            A.       No, it's not there.

11            Q.       When it says "multiple" here,  
12     does that mean two or is there some other  
13     number that is intended to kind of signify  
14     the flag for Giant Eagle pharmacists?

15            A.       I don't know if there's -- I  
16     don't -- it's more than one. I don't know  
17     if -- if the -- I can't recall if the intent  
18     was to have a number, but multiple, more than  
19     one.

20            Q.       Was this policy, this  
21     guideline, ever updated during your time as  
22     the pharmacy manager, or this one from July  
23     '13 stay in place without changes during your  
24     tenure?

25            A.       We did not update this during

1 my tenure.

2 Q. Flipping to the next page,  
3 let's look at some of the red flags there.

4 A. Yes.

5 Q. Number 4 talks about early  
6 refills.

7 Do you see that?

8 A. Yes.

9 Q. Is there any type of mechanism  
10 within the software or the dispensing system  
11 at Walgreens -- or excuse me, at HBC or Giant  
12 Eagle, that would give a notification to the  
13 a pharmacist if there was a prescription  
14 presented early for a refill for a controlled  
15 substance?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: The software did  
18 display alerts for early refill  
19 warnings.

20 QUESTIONS BY MR. GADDY:

21 Q. Okay. And would that work if  
22 it was one day early, or did it have to be  
23 three days or a week or do you know?

24 A. I don't know the exact time  
25 frame, but it was more than -- it was -- it

1     gave -- at least gave the patient some leeway  
2     so that patients weren't running out of  
3     medication completely before they could get  
4     it refilled. I don't remember the exact --  
5     the exact percentage or days early that --  
6     when it would fire.

7             Q.       Okay. And there was also an  
8     issue, I think, with insurance. You might  
9     get an insurance flag or insurance doesn't  
10    want to pay for the prescription if it's  
11    presented too early, correct?

12            A.       Yes.

13            Q.       Okay. Kind of from a -- I've  
14    never -- obviously never stood behind a  
15    computer in a Giant Eagle pharmacy, so help  
16    me understand what happens if -- let's say  
17    somebody has a 30-day prescription for some  
18    type of Schedule III opioid, and they come  
19    in, to make it easy, three weeks early to get  
20    it refilled.

21                    I imagine that three weeks is  
22    enough time to trigger some type of  
23    notification, right?

24                    MR. KOBRIN: Object to form.

25                    THE WITNESS: It possibly could

1 be.

2 QUESTIONS BY MR. GADDY:

3 Q. Okay. So help me understand.

4 What happens on the screen in front of the  
5 pharmacist when that person presents that  
6 script three weeks early and they type it in?

7 I mean, does the screen go red? Is there a  
8 pop-up box? What happens?

9 MR. KOBRIN: Object to form.

10 I just want to make a quick  
11 note on the record. We had a 30(b)(6)  
12 deponent who testified extensively  
13 about the databases and how the data  
14 works.

15 I'm not sure Mr. Chunderlik,  
16 who has not dispensed at a Giant Eagle  
17 pharmacy in several years and no  
18 longer works for Giant Eagle, is the  
19 appropriate witness for these  
20 questions.

21 Go ahead to the extent you can  
22 answer, George.

23 THE WITNESS: My recollection  
24 is that there's not a red box, but  
25 there would be a warning displayed to

1           the pharmacist or -- to the pharmacist  
2           who was dispensing.

3       QUESTIONS BY MR. GADDY:

4           Q.       Okay. And how does the  
5       pharmacist -- is the pharmacist then  
6       prevented from filling the prescription, or  
7       is there a way that the pharmacist can kind  
8       of, you know, acknowledge the warning and  
9       then continue to fill the prescription?

10                   MR. KOBRIN: Same objection.

11                   THE WITNESS: My recollection  
12           is that the pharmacist could  
13           acknowledge the warning and move  
14           forward.

15       QUESTIONS BY MR. GADDY:

16           Q.       So the patient could say, I  
17       lost my pills, I was on vacation, I left them  
18       in the hotel room, I need another script, and  
19       if the pharmacist determined that everything  
20       seem appropriate, legitimate, they could  
21       acknowledge the warning but then fill the  
22       prescription, true?

23                   MR. KOBRIN: Object to form.

24           Vague. Misstates his testimony and  
25       misstates the facts regarding a refill

1           versus a new prescription.

2                   THE WITNESS: It could -- it  
3           could -- just say that -- repeat that  
4           one more time, please.

5   QUESTIONS BY MR. GADDY:

6           Q.       Sure.

7                   It's really not intended to be  
8           a trick question, regardless of Josh's  
9           objection.

10          A.       I just want to make sure I have  
11       it correct in my mind.

12          Q.       Yeah, I totally understand.

13                   MR. KOBRIN: I'm not accusing  
14       you of being inappropriate, but it  
15       does kind of change -- it shifts  
16       gears, and I don't want the record to  
17       reflect that he's saying somehow that  
18       they can refill a new script.

19                   MR. GADDY: Yeah, the record's  
20       got a lot of your thoughts on it,  
21       Josh.

22   QUESTIONS BY MR. GADDY:

23          Q.       Mr. Chunderlik, if a patient  
24       comes in three weeks early with an opioid  
25       prescription, presents it, you're tell --

1     what you told us is the pharmacist is going  
2     to get some type of pop-up or alert telling  
3     them that it's coming in early.

4                     But what I understand you to be  
5     telling me is that if the pharmacist makes a  
6     determination that there's a legitimate  
7     reason for the early refill, the pharmacist  
8     has the ability to acknowledge the  
9     notification or the pop-up and then fill the  
10    prescription, true?

11            A.     Yes.

12            Q.     Next one I want to look at  
13    here, number 5, is, "Further than expected  
14    distances of the patient and/or medical  
15    provider from the pharmacy."

16                     Do you see that?

17            A.     Yes.

18            Q.     Did Giant Eagle have any  
19    guidance that they gave to their pharmacists  
20    on what distance was appropriate?

21            A.     Not that I can recall.

22            Q.     Okay. Well, was there any tool  
23    within the software or any other -- or any  
24    other tool that was made available to the  
25    pharmacists that when they entered the

1 information for the doctor and the  
2 information for the patient -- and obviously  
3 they knew the information for the pharmacist  
4 since they're working in it, was there any  
5 tool that Giant Eagle gave the pharmacists  
6 that would -- that would tell the pharmacist  
7 how far away the distances were or anything  
8 like that?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: No, there was not  
11 any tool within the software to do  
12 that.

13 QUESTIONS BY MR. GADDY:

14 Q. Okay. And it talks about  
15 distances between the patient or the doctor  
16 from the pharmacy.

17 Did you ever consider a red  
18 flag about the distance between the patient  
19 and the doctor, or was that never a red flag  
20 that was included in these guidelines?

21 MR. KOBRIN: Hang on a second.

22 You can answer, George.

23 THE WITNESS: Not that I can  
24 recall.

25

1 QUESTIONS BY MR. GADDY:

2 Q. The next one, number 6, says,  
3 "Overwhelming percentage of pharmacy business  
4 devoted to controlled substances."

5 Do you see that?

6 A. Yes.

7 Q. And this one was honestly a  
8 little confusing to me, Mr. Chunderlik.

9 Is it Giant Eagle's intention  
10 that before a pharmacist fills a  
11 prescription, that they're supposed to run or  
12 calculate the percentage of controlled  
13 substances that their particular pharmacy has  
14 run? Or has dispensed?

15 MR. KOBRIN: Object to form.

16 THE WITNESS: No, I believe  
17 they were just general -- general  
18 guidelines to be aware of.

19 QUESTIONS BY MR. GADDY:

20 Q. Okay. So you'll agree with me,  
21 number 6 wasn't a particular red flag that  
22 you expected Giant Eagle pharmacists to  
23 consider when presented with an individual  
24 prescription?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: No, it could be a  
2 possible red flag.

3 QUESTIONS BY MR. GADDY:

4 Q. Can you walk me through a  
5 scenario in which number 6 would cause a  
6 pharmacist, and number 6 alone, would cause a  
7 pharmacist to not fill a prescription?

8 A. Not just number 6 alone, no.

9 Q. Okay. But -- okay. So explain  
10 to me, how does number 6 factor in?

11 And let me see if I can ask it  
12 differently.

13 What information does the  
14 pharmacist have available to them to look and  
15 see their volume of dispensing of controlled  
16 substances versus noncontrolled substances?  
17 Do they have that information available on a  
18 dashboard or in realtime while they're  
19 filling prescriptions?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: To my knowledge,  
22 not -- not realtime as they're filling  
23 prescriptions.

24 QUESTIONS BY MR. GADDY:

25 Q. Is there -- I mean, is there

1     like a daily report that the pharmacists are  
2     supposed to pull to tell them how many  
3     controls they're filling versus noncontrols?

4             A.       They do have -- they did have a  
5     report that they would run at night listing  
6     their prescriptions, showing, you know, what  
7     schedules they fell into.

8             Q.       Was there any guidance or  
9     instruction from corporate to the pharmacists  
10    that they were supposed to be hitting some  
11    split or some ratio of filling controls  
12    versus noncontrols?

13                   MR. KOBRIN:   Object to form.

14                   THE WITNESS:   No.

15    QUESTIONS BY MR. GADDY:

16             Q.       Okay.   Was there any direction  
17    or guidance from corporate that they were  
18    supposed to be analyzing on a nightly basis  
19    the ratio of controls to noncontrolled  
20    scripts that they filled?

21                   MR. KOBRIN:   Object to form.

22                   THE WITNESS:   No.

23    QUESTIONS BY MR. GADDY:

24             Q.       Okay.   So how did number 6  
25    factor into a pharmacist's decision to fill

1 an individual opioid prescription?

2 A. It's hard for me to recall at  
3 this point, other than the fact that it was  
4 one of the possible red flags that, again,  
5 you know, would be taking from different  
6 sources and things to possibly be aware of.

7 Q. Okay. Let's look at another --

8 A. If they could -- if they could  
9 make a determination as they were filling  
10 prescriptions, they could look at somebody's  
11 profile, schedule profile, to see, you know,  
12 what their prescription profile and their mix  
13 of their -- the types of prescriptions that  
14 they were taking.

15 Q. And I appreciate you mentioned  
16 the pharmacy profile, and we'll get to that  
17 in a minute.

18 But this is talking about the  
19 pharmacy business, right? Not an individual  
20 patient?

21 MR. KOBRIN: Object to form.

22 Misrepresents testimony.

23 THE WITNESS: Individual  
24 prescriptions are part of the pharmacy  
25 business. Individual patients are

1           part of the pharmacy business.

2       QUESTIONS BY MR. GADDY:

3           Q.       Okay. The next one,  
4       Mr. Chunderlik, is, "Failure to contact  
5       and/or follow up with other pharmacists who  
6       are not filling prescriptions from the  
7       provider in question."

8                    Do you see that?

9           A.       Yes.

10          Q.       When a pharmacist enters a  
11       prescription -- and included in that, I  
12       presume, they enter -- they input, or the  
13       prescription, when it's scanned, inputs the  
14       doctor who wrote the prescription, right?

15          A.       I'm sorry, say that again?

16       Just --

17          Q.       Sure.

18                    When a pharmacist enters a  
19       prescription, one of the -- one of the items  
20       that they enter is the doctor that issued the  
21       prescription.

22          A.       Yes.

23          Q.       Correct?

24          A.       Yes.

25          Q.       Okay. So my question for you

1 is, when that happens, is there any type of  
2 alert, kind of like what you told us about  
3 with the early refills, an alert or a pop-up  
4 or a message that tells that pharmacist about  
5 other pharmacists who have not filled  
6 prescriptions for that particular doctor?

7 Was that something that happens  
8 within the Giant Eagle system?

9 MR. KOBRIN: Object to form.

10 THE WITNESS: As I recall, not  
11 necessarily.

12 QUESTIONS BY MR. GADDY:

13 Q. Well, it's not -- really not  
14 necessarily. It's, no, that that does not  
15 happen, correct?

16 MR. KOBRIN: Object to form.

17 QUESTIONS BY MR. GADDY:

18 Q. There's no pop-up, there's no  
19 notification, there's no -- anything like  
20 that within the Giant Eagle system, right?

21 MR. KOBRIN: Object to form.

22 Again, we had a 30(b)(6)  
23 deponent who testified extensively on  
24 these issues. Mr. Chunderlik no  
25 longer works in compliance and no

1 longer works for Giant Eagle.

2 THE WITNESS: Not that I can  
3 recall.

4 QUESTIONS BY MR. GADDY:

5 Q. The other one I want to ask  
6 about is number 10. It says, "Verification  
7 that a prescription is legitimate is not  
8 satisfied simply because the provider  
9 performed blood tests and MRIs on the  
10 patient."

11 Do you see that?

12 Help me understand how that's a  
13 red flag for Giant Eagle pharmacists.

14 MR. KOBRIN: Object to form.

15 THE WITNESS: Again, these were  
16 red flags that were in publication,  
17 various publications, that I had seen  
18 that we included in our guideline.

19 QUESTIONS BY MR. GADDY:

20 Q. Okay. So this was something  
21 that you thought was important enough to  
22 include in the Giant Eagle controlled  
23 substance dispensing guidelines, right?

24 A. Possibly, yes.

25 Q. Let's go down to the bottom of

1     that page, Mr. Chunderlik, and there's a  
2     section called Documentation.

3                     Do you see that?

4             A.       Yes.

5             Q.       And it says here, "A pharmacist  
6     must document the steps they have taken to  
7     verify questionable prescriptions, including  
8     any calls to the prescriber, conversations  
9     with the patient, medical history review and  
10    notate" -- excuse me. So let me stop right  
11    there.

12                    They must document the steps  
13    they've taken to verify the prescription,  
14    right?

15            A.       That's what it says, yes.

16            Q.       Why is that so important?

17                    MR. KOBRIN: Form.

18                    THE WITNESS: One way to maybe  
19    alert others that they had checked on  
20    the prescription, their fellow  
21    pharmacists. If it had refills, to  
22    make sure that -- you know, basically  
23    to let the fellow pharmacists, you  
24    know, if there was a refill on a  
25    prescription, that, you know, somebody

1           had already checked on it so that  
2           everybody knew that this had already  
3           been done.

4       QUESTIONS BY MR. GADDY:

5           Q.       Or in the inverse, if one  
6       pharmacist had looked into it and decided the  
7       prescription shouldn't be filled, notes and  
8       documentation about that decision could also  
9       be helpful to the other pharmacists, correct?

10               MR. KOBRIN:   Object to form.

11               THE WITNESS:   It's a  
12           possibility, yes.

13       QUESTIONS BY MR. GADDY:

14           Q.       Okay.   He goes on to say that  
15       the notes should be notated on the  
16       prescription itself or in the computer  
17       system, utilizing the appropriate note  
18       fields.

19               Correct?

20           A.       Yes, that's what it says.

21           Q.       Okay.   And I understand that --  
22       and so the pharmacists were given an option.  
23       They could either use the hardcopy  
24       prescription or they could use the notes  
25       field, right?

1 A. Yes.

2 Q. Okay. And there's multiple  
3 different note fields within the dispensing  
4 software, right?

5 A. As I recall, yes.

6 Q. Okay. And the hardcopy  
7 prescription are filed within each individual  
8 store, correct?

9 A. Correct.

10 Q. And my memory is that there's a  
11 folder; they keep about 100 prescriptions in  
12 them; keep them in order. And if you go back  
13 and look at notes made on any of those  
14 hardcopy prescriptions, you'd have to go into  
15 the store, into the folder and find the  
16 script, right?

17 MR. KOBRIN: Object to form.  
18 Misrepresents the record.

19 THE WITNESS: That would be --  
20 that -- I would agree.

21 QUESTIONS BY MR. GADDY:

22 Q. Now that we have these  
23 controlled substance dispensing guidelines,  
24 and once you -- they were documented and  
25 formalized in July of 2013, what was done to

1     implement these or roll these out to the  
2     pharmacists and the pharmacy techs?

3                     MR. KOBRIN: Object to form.

4                     Misstates the document and  
5                     misrepresents the prior testimony.

6                     THE WITNESS: My recollection  
7                     is that this was presented to our  
8                     pharmacy team leaders initially, and  
9                     they had -- they had yearly sign-offs.  
10                    And whenever we had quarterly CQI  
11                    meetings, that they had to sign off on  
12                    these particular guidelines, that they  
13                    read and understood them.

14     QUESTIONS BY MR. GADDY:

15                    Q.       Was there any training done on  
16                    these guidelines that you implemented?

17                    A.       Initial training in our  
18                    pharmacy conferences that we held in -- when  
19                    this was initially rolled out to the stores.

20                    Q.       Anything other than in 2013?  
21                    Any training that you had implemented that  
22                    was rolled out other than that that you  
23                    recall?

24                    MR. KOBRIN: Object to form.

25                    Asked and answered.

1                   THE WITNESS: My recollection  
2                   is that these guidelines were  
3                   presented multiple times through  
4                   various -- there was instances when we  
5                   had it on our computer-based training  
6                   program for sign-off, and we also  
7                   included it in our quarterly CQI  
8                   meetings that we required all stores  
9                   to hold.

10       QUESTIONS BY MR. GADDY:

11               Q.       I've seen some references in  
12       some of the Giant Eagle documents where they  
13       had a secret shopper-type program where they  
14       would send someone into the store, and then  
15       they would grade the team members on things  
16       like friendliness and speed and ease of  
17       checkout and those types of things.

18                   Do you know what I'm talking  
19       about?

20               A.       I do.

21                   MR. KOBRIN: Object to form.

22       QUESTIONS BY MR. GADDY:

23               Q.       Did you implement or ask to  
24       implement or ask to have done any type of  
25       secret shopper-type programs as it relates to

1     these guidelines? Say, have folks go in and  
2     present, you know, prescriptions to the  
3     pharmacist and grade or judge the pharmacist  
4     on how they -- they handled these guidelines  
5     as far as red flags?

6             A.       Not that I recall.

7             MR. GADDY:   Okay.

8             Mr. Chunderlik, if it's okay with you,  
9             I'm going to take about a ten-minute  
10            break and try to get organized for the  
11            homestretch here. Okay?

12            THE WITNESS:   Okay.

13            MR. KOBRIN:   How much time do  
14            you think you have left, Jeff?

15            MR. GADDY:   What's that?

16            MR. KOBRIN:   How much time do  
17            you think you have left?

18            MR. GADDY:   I'm not sure.

19            MR. KOBRIN:   We're still on the  
20            record, right?

21            How long a break are we taking?

22            MR. GADDY:   Ten minutes is  
23            fine.

24            MR. KOBRIN:   Okay.

25            VIDEOGRAPHER:   The time is

1 11:53 a.m. We are off the record.

2 (Off the record at 11:53 a.m.)

3 VIDEOGRAPHER: The time is

4 12:16 p.m. We are back on the record.

5 (Chunderlik Exhibit 7 marked  
6 for identification.)

7 QUESTIONS BY MR. GADDY:

8 Q. Mr. Chunderlik, we're going to  
9 P-HBC-46, which would be Tab Number 20.

10 Let me know when you've gotten  
11 there.

12 A. Yes, I have it.

13 Q. I'm going to ask you a couple  
14 of questions about DURs.

15 Do you know what that means?

16 A. Yes.

17 Q. Tell us, please.

18 A. A DUR is an acronym that stands  
19 for drug utilization review.

20 Q. And practically, what does that  
21 mean?

22 A. To review the prescription and  
23 all the other prescriptions that the patient  
24 may have on file to show if there's any  
25 interactions, any type of alerts that may --

1     that may come up in regards to that  
2     prescription.

3             Q.       And I understand that currently  
4     there's some aspect of that that is  
5     incorporated into Giant Eagle's dispensing  
6     system?

7             A.       Yes.

8             Q.       Okay. Has that always been the  
9     case?

10            A.       Yes.

11            Q.       Okay. Okay. Let's look at  
12    this e-mail here. It looks like it's from  
13    October of 2011. And if we go down to the  
14    bottom, it looks like this is maybe a  
15    communication to all Ohio pharmacists, and it  
16    looks like it's from Joseph Millward.

17                    Do you see that?

18            A.       Yes.

19            Q.       And it says, "The purpose is to  
20    update all Ohio pharmacists on the new Ohio  
21    BOP rule on prospective drug utilization  
22    review, DUR, through the OARRS system."

23                    Do you see that?

24            A.       Yes.

25            Q.       And you understand that OARRS

1 is the Ohio's version -- excuse me, is Ohio's  
2 version of the Prescription Drug Monitoring  
3 Program, right?

4 A. Yes.

5 Q. And it goes on to say in the  
6 first bullet point under Actions, "All Ohio  
7 licensed pharmacists are to review and  
8 incorporate into daily practice the attached  
9 Ohio BOP," and it gives a regulation number,  
10 "on prospective DUR."

11 Do you see that?

12 A. Yes.

13 Q. Did any aspect of your manager  
14 of pharmacy compliance position deal with  
15 this particular regulation in Ohio in  
16 implementing these types of procedures?

17 A. I'm sorry, would you repeat  
18 that again, please?

19 Q. Sure.

20 Did any aspect of your duties  
21 while you were the manager of pharmacy  
22 compliance, when you took on that position  
23 the year after this communication in 2012,  
24 deal with DURs?

25 A. I'm not sure in what respect

1     you mean "deal with DURs." I guess I'm not  
2     quite understanding what your question is.

3             Q.       Sure.

4                     Did any part of your job duties  
5     deal with training pharmacists on how to --  
6     how to appropriately go through the DUR  
7     process or practice tips on how to handle  
8     DURs they're presented with, providing input  
9     to the software that would flag different  
10    items for DURs or things like that? Any of  
11    those?

12            A.       Not under -- not -- I didn't  
13    have any -- any responsibility or any input  
14    into how DURs or what DURs would present  
15    themselves to the -- to the pharmacist.

16                    The -- it -- at that point in  
17    time I didn't have any -- anything to do  
18    with, you know, how these DURs were presented  
19    or anything like that, if that's what you're  
20    asking.

21            Q.       Okay. Flip a couple pages for  
22    me, please, and you're going to see an Ohio  
23    board -- excuse me, Ohio State Board of  
24    Pharmacy newsletter, Bates ending 160.

25            A.       Yes.

1           Q.       Up in the top left-hand corner,  
2   you see that this particular issue was May  
3   of 2011?

4           A.       Yes.

5           Q.       Okay. And I want to take you  
6   down to the portion in the bottom right-hand  
7   column of that page.

8                    You with me?

9           A.       Yes. Yes.

10          Q.       And it says, "Corresponding  
11   responsibility is needed more than ever."

12                    Correct?

13          A.       Yes.

14          Q.       It says, "In last year's May  
15   newsletter..."

16                    Do you see that?

17          A.       Okay.

18          Q.       So that would be May of -- I  
19   guess the last year would have been May  
20   of 2010, right?

21          A.       Yes.

22          Q.       It says, "In last year's May  
23   newsletter, the board mentioned that it is  
24   having a tremendous problem in Ohio with  
25   so-called pain clinics that are doing nothing

1 but providing large amounts of controlled  
2 substances, particularly oxycodone and  
3 hydrocodone, to people who have no legitimate  
4 medical need for them."

5 Do you see that?

6 A. Yes.

7 Q. It goes on to say, "That  
8 problem has, if anything, increased over the  
9 last year."

10 Right?

11 A. Yes.

12 Q. So it looks like this was first  
13 sent around to Ohio pharmacists back in May  
14 of 2010, and then they're reiterating that  
15 message here in May of 2011, correct?

16 MR. KOBRIN: Object to form.  
17 He can see what's here. I don't think  
18 he can confirm whether they published  
19 it previously or are reiterating it  
20 now.

21 THE WITNESS: Say that again?

22 QUESTIONS BY MR. GADDY:

23 Q. Sure.

24 MR. KOBRIN: Josh -- excuse me.

25 Mr. Gaddy?

1 QUESTIONS BY MR. GADDY:

2 Q. Sure, Mr. Chunderlik.

3 You see how it's indicating  
4 here that a year ago, in May of 2010, they  
5 notified -- the board mentioned that there  
6 was a tremendous problem in Ohio with pain  
7 clinics, with oxycodone and hydrocodone, and  
8 then they reiterate here that the problem has  
9 continued to increase.

10 Do you see that?

11 A. Yes.

12 Q. And this is in May of 2011 that  
13 the reiteration is sent, which is about two  
14 years before Giant Eagle publishes their  
15 first written, formalized version of the  
16 controlled substances dispensing policies,  
17 correct?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: This -- this  
20 article -- this newsletter was written  
21 prior to that.

22 QUESTIONS BY MR. GADDY:

23 Q. Two-plus years prior to that,  
24 right?

25 MR. KOBRIN: Object to form.

1 THE WITNESS: Yes.

2 QUESTIONS BY MR. GADDY:

3 Q. Okay. Let's go to the next  
4 page, and go down to the bottom of the  
5 left-hand column for me, please.

6 And I'm going to be -- I'm  
7 going to start three lines from the bottom  
8 where it starts -- the sentence starts, "The  
9 pharmacist is often."

10 A. Yes.

11 Q. It says, "The pharmacist is  
12 often the last person who has the opportunity  
13 to make an independent judgment as to the  
14 legitimacy of the prescription and the  
15 patient."

16 Do you see that?

17 A. Yes.

18 Q. Do you agree with what's being  
19 written here by the Ohio Board of Pharmacy  
20 that the pharmacist is the last person, the  
21 last line of defense, in making sure that a  
22 prescription gets into the hand of a person  
23 who should have it?

24 A. That's what it says. You know,  
25 I don't know if it's -- it's the last person

1 who has the opportunity to make an  
2 independent judgment. They are the last  
3 person -- they are the person who's filling  
4 the prescription. If they need to, they may,  
5 you know, call the physician, you know, if  
6 they have any question.

7 So at that point in time, if  
8 they have questions on a prescription, you  
9 know, they are not the last person to  
10 necessarily make that independent judgment.  
11 They may make it in combination with a  
12 prescriber at the same time.

13 Q. So I hear you, Mr. Chunderlik.

14 But even if they happen to have  
15 an occasion to call a doctor or some other  
16 practitioner or refer to some other source or  
17 person, they still then have to make the  
18 decision to issue the prescription and  
19 actually hand the drugs to the patient,  
20 right?

21 A. That would be the only way the  
22 patient could get the drug.

23 Q. Okay. So, again, it's not  
24 intended to be a trick question, but you  
25 agree the pharmacist is the last line of

1 defense in making sure that the drugs goes  
2 into the hands of a person who should  
3 actually get them?

4 MR. KOBRIN: Object to form.

5 THE WITNESS: Yes.

6 QUESTIONS BY MR. GADDY:

7 Q. Okay. It goes on to say that  
8 "Both Ohio laws and rules and federal laws  
9 and regulations place a corresponding  
10 responsibility on the pharmacist to make that  
11 judgment and hold the pharmacist accountable  
12 for that judgment."

13 Correct?

14 A. Yes.

15 Q. Now, I'll look at -- excuse me.  
16 If you turn one more page, you see the Ohio  
17 regulation 4729-5-20 with respect to drug  
18 utilization review.

19 Do you see that?

20 A. Yes.

21 Q. Okay. And this was the policy  
22 that was being rolled out in Ohio that would  
23 relate to the pharmacists as far as DURs go,  
24 correct?

25 A. Yes.

1 (Chunderlik Exhibit 8 marked  
2 for identification.)

3 QUESTIONS BY MR. GADDY:

4 Q. Let's go now, please, to  
5 P-HBC-1349, which is going to be your Tab 22.  
6 And let me know when you're there,  
7 Mr. Chunderlik.

8 A. I do have it.

9 Q. Okay. You see this is a policy  
10 entitled "Drug Utilization Review," and the  
11 purpose indicates to "Ensure all drug  
12 utilization reviews are reviewed and  
13 authorized by the final verification  
14 pharmacist."

15 Do you see that?

16 A. Yes.

17 Q. And then there's a couple of  
18 points listed, and the first one is, "The  
19 pharmacist must screen for potential  
20 therapeutic problems before the prescription  
21 is dispensed to the patient."

22 Right?

23 A. Yes.

24 Q. And the last bullet point  
25 indicates that "The course of action taken by

1 the pharmacist to resolve a DUR must be  
2 documented."

3 Correct?

4 A. Yes.

5 Q. And would the instruction on  
6 how to document, acknowledging and moving  
7 past the DUR, be consistent with what we  
8 looked at earlier as far as that  
9 documentation can occur on the hardcopy  
10 prescription or it could occur within some  
11 type of notes field in the dispensing  
12 software? Is that fair?

13 MR. KOBRIN: Object to form.

14 THE WITNESS: It could -- it  
15 could appear on the hardcopy  
16 prescription -- a note could appear on  
17 the hardcopy prescription as well as  
18 within the computer system.

19 QUESTIONS BY MR. GADDY:

20 Q. Okay. From your perspective or  
21 your memory from your time as the manager of  
22 pharmacy compliance, was it more likely for  
23 those things to happen on the hardcopy  
24 prescription or more likely to happen within  
25 the system?

1           A.       I do not know that.

2           Q.       Okay. If we go down to the  
3 procedure, there's a couple of steps listed  
4 there.

5                   Do you see that?

6           A.       Yes.

7           Q.       First thing it says is, "When a  
8 DUR screen is displayed that contains one or  
9 more critical DUR records," and then it has  
10 some bullet points.

11                   Do you see that?

12          A.       I'm sorry, on which page are we  
13 on? The first page --

14          Q.       Same page. Same page under --  
15 under -- procedure under steps.

16          A.       Okay. Yes. Okay. I'm sorry,  
17 I have it. Yeah.

18          Q.       As it relates to opioids, just  
19 thinking about opioid prescriptions, can you  
20 give me examples of critical DURs that may be  
21 displayed for opioid prescriptions?

22                   MR. KOBRIN: Object to form.

23                   THE WITNESS: I don't recall  
24 how those would have displayed, and  
25 specifically to opioid prescriptions.

1 QUESTIONS BY MR. GADDY:

2 Q. Do you know whether or not  
3 there were any critical DURs that would have  
4 specifically related to opioid prescriptions?

5 MR. KOBRIN: Object to form.

6 THE WITNESS: I can't recall.

7 (Chunderlik Exhibit 9 marked  
8 for identification.)

9 QUESTIONS BY MR. GADDY:

10 Q. Let's look at P-HBC-1376, which  
11 is going to be your Tab Number 31, and let me  
12 know when you're there, please.

13 MR. KOBRIN: What tab did you  
14 say again, Jeff?

15 MR. GADDY: It is tab -- it  
16 says 31.

17 MR. KOBRIN: 31?

18 How much time do we have on the  
19 record?

20 MR. GADDY: Gina, I'm looking  
21 at Bates number 4831. Is that  
22 included in what you have up on the  
23 screen? In that same document?

24 MR. KOBRIN: It is.

25 GINA VELDMAN: Yeah.

1 MR. GADDY: Okay. Great.

2 Thank you.

3 MR. KOBRIN: How much time have  
4 we got on the record right now?

5 VIDEOGRAPHER: We have 2:31 on  
6 the record.

7 MR. KOBRIN: Thank you.

8 QUESTIONS BY MR. GADDY:

9 Q. You with me, Mr. Chunderlik?

10 A. Yes.

11 Q. Okay. And you see this is  
12 the -- it looks like a drug utilization  
13 review policy.

14 Do you see that?

15 A. Yes.

16 Q. And it's a Giant Eagle policy?

17 A. Yes, it is.

18 Q. And it indicates this is the  
19 first version of this policy and that it was  
20 entered in April of 2017.

21 Do you see that?

22 A. Yes.

23 Q. And did you have any  
24 involvement with this policy?

25 A. Yes.

1           Q.       What was your involvement with  
2   this policy?

3           A.       I was involved with our  
4   pharmacy quality committee in writing safety  
5   and quality policies. I was a member of the  
6   committee that would have put the policy  
7   together.

8           Q.       Okay. I'm hoping you can help  
9   me understand this policy a little bit.

10                   I want to go under the policy  
11   section, about the middle of the page.

12                   Do you see that?

13           A.       Yes. Yes.

14           Q.       It says, "The data verification  
15   pharmacist must review all medications and  
16   all drug management issues highlighted by the  
17   pharmacy software before dispensing to the  
18   patient."

19                   Correct?

20           A.       Yes.

21           Q.       And obviously we're talking a  
22   lot about opioids today, but fair to say that  
23   DURs apply to all prescriptions? Or can  
24   apply to all prescriptions?

25           A.       Yes.

1           Q.       It's not just controlled  
2 substance prescriptions that they apply to,  
3 right?

4           A.       Yes, that's correct.

5           Q.       You can have a medication for  
6 blood pressure that may have an adverse  
7 interaction with another medication, and  
8 that's the type of thing that would be  
9 notified -- or the pharmacist may be notified  
10 about by way of a DUR, correct?

11          A.       That's correct, yes.

12          Q.       Okay. So fair to say that this  
13 policy is not written specifically for  
14 opioids?

15          A.       No.

16          Q.       Okay. Sorry, that might have  
17 been a bad question.

18                    You agree it's not specifically  
19 for opioids?

20          A.       It's not specifically for  
21 opioids.

22          Q.       Thank you.

23                    The next bullet point says,  
24 "The system flags are displayed as red or  
25 yellow to identify clinical significance and

1 include, but are not limited to, the  
2 following."

3 So before we get into the  
4 individual flags listed, can you help me  
5 understand, when it says "displayed as red or  
6 yellow," what happened on the screen for the  
7 pharmacist, if you know, when there was a  
8 flag or a DUR? Did the screen turn yellow or  
9 red or something along those linings?

10 MR. KOBRIN: Object to form.  
11 Same objection regarding our 30(b)(6)  
12 deponent on these particular topics.

13 You can answer, if you can,  
14 George.

15 THE WITNESS: As I recall, they  
16 would -- they would be highlighted in  
17 red or yellow, depending on the  
18 clinical significance.

19 QUESTIONS BY MR. GADDY:

20 Q. And is it some type of pop-up  
21 that prevents the pharmacist from doing  
22 anything else until they acknowledge that  
23 DUR?

24 A. In certain situations, yes.

25 Q. Okay. And as you look at this

1 list here, particularly let's look at the  
2 last bullet point, abuse or misuse.

3 Looking at that, does that jog  
4 your recollection as to whether or not there  
5 were any DURs that were specific to opioids?  
6 And if so, I want you to help me understand  
7 what would have popped up on the screen that  
8 may have related to opioids, if you remember.

9 MR. KOBRIN: Object to form.

10 THE WITNESS: In regards to any  
11 drug, including opioids, if there was  
12 situations where there was maybe  
13 overutilization or multiple  
14 prescriptions on file for the same  
15 time frame.

16 QUESTIONS BY MR. GADDY:

17 Q. Okay. Can you give me a  
18 specific example that would relate to an  
19 opioid prescription, or a subset of opioid  
20 prescriptions, that would cause some type of  
21 an alert to the pharmacist?

22 And if you can't give me a  
23 specific example, that's fine. I'm just  
24 trying to wrap my head around it, and if you  
25 can give me one, that might be helpful.

1 MR. KOBRIN: Object to form.

2 THE WITNESS: I can't put -- I  
3 can't -- I don't have a recollection  
4 of how this would -- or an example of  
5 how that would fire.

6 QUESTIONS BY MR. GADDY:

7 Q. Okay. Let me shift gears for a  
8 few minutes, Mr. Chunderlik, and ask you  
9 about the term "metrics" in the context of  
10 the pharmacy.

11 What does that mean to you?

12 MR. KOBRIN: Object to form.

13 THE WITNESS: I'm not -- I'm  
14 not -- I'm not sure.

15 QUESTIONS BY MR. GADDY:

16 Q. Okay. Do you have an  
17 understanding and a memory that Giant Eagle  
18 tracks different metrics related to its  
19 different stores within the chain?

20 MR. KOBRIN: Object to form.

21 THE WITNESS: Can you give me  
22 an example?

23 QUESTIONS BY MR. GADDY:

24 Q. Sure.

25 I'm -- one of the things that

1 Giant Eagle tracks as far as metrics is the  
2 sales at their stores, the number of  
3 prescriptions filled at different stores.  
4 They get somewhat granular and track things  
5 like the number of customers signed up for  
6 automatic refills. They track things like  
7 the number of customers signed up to receive  
8 text message alerts and things like that.

9 Does that ring a bell?

10 A. Yes.

11 Q. Okay. And you agree that those  
12 are different types of metrics that Giant  
13 Eagle tracked for all of its stores?

14 A. Yes.

15 Q. Okay. Another thing that Giant  
16 Eagle would track about all of its stores  
17 might be the number of immunizations that the  
18 pharmacists are dispensing, correct?

19 A. Yes.

20 Q. They track things like customer  
21 feedback. I think Giant Eagle called it VOC,  
22 or voice of customer?

23 A. Yes.

24 Q. And within the voice of  
25 customer platform, Giant Eagle tracks

1 different mechanisms about how satisfied  
2 their customers are with their experience  
3 within the Giant Eagle stores, correct?

4 A. Yes.

5 Q. Why is it, if you know, that  
6 Giant Eagle's tracking these types of metrics  
7 on the pharmacies and their pharmacists?

8 A. Some of those metrics help  
9 improve -- could help improve certain aspects  
10 of the business. We wanted to make sure --  
11 I'll use customer service as an example. I  
12 wanted to make sure that our customers felt  
13 that our pharmacists provided them with the  
14 services and the care that they would expect  
15 going into a pharmacy to help us to determine  
16 if our -- if our customers were satisfied  
17 that -- they were satisfied with our service.

18 Q. And some of these metrics, you  
19 said, could help improve aspects of the  
20 business. Some of these metrics could also  
21 help improve the bottom line of the business,  
22 correct? As far as profits?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: I don't  
25 necessarily know that to be true.

1 QUESTIONS BY MR. GADDY:

2 Q. Well, for example, we mentioned  
3 and you agreed that one of the things that  
4 Giant Eagle tracked was the number of  
5 patients that would be set up for automatic  
6 refills.

7 Do you remember that?

8 A. Yes.

9 Q. And if a patient is continuing  
10 to get their refills at Giant Eagle  
11 pharmacies and that that's signed up in an  
12 automatic fashion, those are going to be  
13 prescriptions that are filled at Giant Eagle  
14 pharmacies, and that's money to Giant Eagle,  
15 true?

16 MR. KOBRIN: Object to form.

17 THE WITNESS: That's not the  
18 only aspect of an automatic refill.

19 QUESTIONS BY MR. GADDY:

20 Q. I didn't ask about the only  
21 aspect, Mr. Chunderlik. I asked if that was  
22 an aspect of it.

23 A. I don't know if, when we  
24 started measuring that, if that was a reason  
25 for having that metric.

1 Q. And again, that wasn't my  
2 question, Mr. Chunderlik.

3 I just asked that that metric,  
4 one aspect of improving that metric, would  
5 improve money flowing into Giant Eagle,  
6 correct?

7 MR. KOBRIN: Object to form.  
8 Vague.

9 THE WITNESS: That's not the  
10 reason why the metric was put in  
11 place.

12 QUESTIONS BY MR. GADDY:

13 Q. I'm not asking you the reason  
14 why it was put in place, Mr. Chunderlik.

15 I'm just asking, if you have  
16 more customers enrolled in automatic refills,  
17 that means more prescriptions are getting  
18 filled at Giant Eagle, and Giant Eagle is  
19 making more money.

20 Is that fair?

21 MR. KOBRIN: Object to form.  
22 Facts not in evidence. You're asking  
23 to him to make a correlation that you  
24 don't have any information about.

25 THE WITNESS: I mean, Giant

1 Eagle -- I don't know if they were  
2 making more money off those  
3 prescriptions. They were filling  
4 prescriptions so that people would  
5 stay and not have to necessarily  
6 remember when they went into a  
7 refill -- in for a refill.

8 Not every prescription Giant  
9 Eagle made money off of.

10 QUESTIONS BY MR. GADDY:

11 Q. Okay. There were --

12 MR. KOBRIN: Continue,  
13 Mr. Chunderlik.

14 THE WITNESS: Go ahead.

15 QUESTIONS BY MR. GADDY:

16 Q. And, Mr. Chunderlik, another  
17 one that Giant Eagle tracked was they -- they  
18 didn't just track, but Giant Eagle even had  
19 contests for their pharmacists about giving  
20 out immunizations and who could give out the  
21 most immunizations and things like that,  
22 correct?

23 MR. KOBRIN: Object to form.

24 THE WITNESS: That was to make  
25 sure people were getting

1 immunizations.

2 QUESTIONS BY MR. GADDY:

3 Q. Okay. Well, the immunizations  
4 that Giant Eagle was giving out for flu shots  
5 or shingles or those types of things, you  
6 weren't giving them out for free, were you?

7 MR. KOBRIN: Object to form.

8 THE WITNESS: No, we weren't  
9 giving those out for free.

10 QUESTIONS BY MR. GADDY:

11 Q. Okay. People were paying for  
12 those, right?

13 A. People were paying for those.

14 MR. KOBRIN: I'd like a  
15 standing objection as to the relevance  
16 of immunization programs as to opioid  
17 dispensing or anything in this  
18 litigation.

19 MR. GADDY: Thanks, Josh. If  
20 it prevents you from interjecting, you  
21 can have an objection to whatever you  
22 like.

23 MR. KOBRIN: That's what I do  
24 it for, to prevent myself from having  
25 to object.

1 (Chunderlik Exhibit 10 marked  
2 for identification.)

3 QUESTIONS BY MR. GADDY:

4 Q. All right. Let's look at  
5 P-HBC-1379, which is going to be your Tab  
6 Number 47.

7 A. Okay. I'm going to grab the  
8 other binder.

9 Q. You got it, Mr. Chunderlik?

10 A. I'm working my way towards it.

11 Q. I don't want us to go all day  
12 without getting into the second binder.

13 A. Sorry. That was Tab 47?

14 Q. Yes, sir.

15 A. Okay.

16 Q. And you see this is a June 2016  
17 e-mail from a Christina McAndrew, and there's  
18 some attachments listed here, some of which  
19 are some agendas that we'll flip to in a  
20 moment.

21 Do you see that?

22 A. Mr. Gaddy, I lost -- for some  
23 reason I lost my visual. If you have  
24 something up on the screen, I lost visual to  
25 the meeting.

1 MR. GADDY: Okay. Let's go off  
2 the record and see if you can get it  
3 back.

4 VIDEOGRAPHER: The time is  
5 12:43 p.m. We are off the record.  
6 (Off the record at 12:43 p.m.)

7 VIDEOGRAPHER: The time is  
8 12:43 p.m. We are back on the record.

9 QUESTIONS BY MR. GADDY:

10 Q. You see, Mr. Chunderlik, it  
11 says, "Greg, attached is the agenda and  
12 PowerPoint presentation for the team leader  
13 calls next week"?

14 Do you see that?

15 A. Yes.

16 Q. And if you flip about two  
17 pages, you'll see the start of the  
18 presentation. It says, "Giant Eagle  
19 quarterly team leader meeting."

20 A. Yes.

21 Q. Do you see that?

22 A. Yes.

23 Q. You flip one more page and you  
24 see the agenda, which includes a couple  
25 different presentations.

1                   You see that?

2           A.       Yes.

3           Q.       And you're listed there in  
4   number 4?

5           A.       Yes.

6           Q.       Okay. I'm actually going to  
7   flip to the presentation just before yours.  
8   There's -- it looks like there's page numbers  
9   on the slides. If you'd go to page number 7,  
10   which should say, "Q4 service focus, Cheryl  
11   Rinovato."

12                   Do you see that?

13          A.       I do. I see that.

14          Q.       Okay. And who was Cheryl?

15          A.       Cheryl was a team member. She  
16   was the senior manager of -- at one point she  
17   had customer service that fell under her  
18   umbrella, and she also had other  
19   responsibilities in the area of work flow  
20   design.

21          Q.       And one of the aspects of  
22   customer service that we talked about a few  
23   minutes ago that Giant Eagle utilized was  
24   these voice of customers to get feedback from  
25   store customers, correct?

1           A.       Yes.

2           Q.       Okay. Let's flip the page, and  
3 you'll see the title of the next slide is  
4 "Service Focus"?

5           A.       Yes.

6           Q.       In there is listed several  
7 different aspects that were included in some  
8 of these surveys or voice of customer-type  
9 type items that would be put out to the  
10 customers.

11                   Do you see that? Things like  
12 friendliness, team member knowledge, team  
13 member professionalism, those types of  
14 things?

15           A.       Yes.

16           Q.       And one of the items that Giant  
17 Eagle gathered information about from its  
18 customers was in the middle there, "time to  
19 fill order."

20                   Do you see that?

21           A.       Yes.

22           Q.       And the time to fill order just  
23 happens to be one of the lowest, I guess,  
24 positive result here in this chart.

25                   Do you see that?

1 A. Yes.

2 Q. Okay. And let's turn the  
3 page one more time.

4 A. Okay.

5 Q. And the slide here says,  
6 "Coach/work/design to reach our service  
7 goals, our two focus attributes have the  
8 lowest scores."

9 Do you see that?

10 A. Yes.

11 Q. Do you recall that the time it  
12 took to fill an order was one of the focus  
13 attributes at Giant Eagle during this time  
14 period?

15 A. Yes.

16 Q. Okay. And one of the things  
17 that they're talking about there are filling  
18 orders that have been placed for  
19 prescriptions within the pharmacy, correct?

20 A. Yes.

21 Q. And it's focusing on this one.  
22 And there's only two here on this page, and  
23 the first one is "time to fill" an order.

24 And one of the things that it  
25 tells folks to do is -- it says, use the

1 dashboard to determine, are you ahead or  
2 behind, where are you behind, and then  
3 respond timely.

4 Do you see that?

5 A. Yes.

6 Q. What dashboard is being  
7 referred to here?

8 Is there something within the  
9 store that the pharmacist is able to see to  
10 know where they are with filling an order?

11 MR. KOBRIN: Object to form.

12 THE WITNESS: I don't -- I have  
13 a vague recollection of how we looked  
14 at a dashboard to determine whether we  
15 were ahead or behind.

16 I don't recall if it was in  
17 software or a board that we used to  
18 keep up in the pharmacy.

19 QUESTIONS BY MR. GADDY:

20 Q. But the pharmacist could see  
21 it, right?

22 MR. KOBRIN: Object to form.

23 THE WITNESS: I believe so.

24 QUESTIONS BY MR. GADDY:

25 Q. The pharmacist knew how long a

1 script was outstanding while they were  
2 filling that script, correct?

3 A. I believe so, yes.

4 Q. The pharmacists at Giant Eagle  
5 knew that one of the focus attributes that  
6 the company was focusing on was time to fill  
7 an order and improving that metric, correct?

8 MR. KOBRIN: Object to form.

9 It misstates facts not in evidence.

10 Assumes facts not in evidence.

11 THE WITNESS: Restate your  
12 question again?

13 QUESTIONS BY MR. GADDY:

14 Q. Sure.

15 You told us that you recall the  
16 time to fill an order was a metric that the  
17 company was focused on during this time  
18 period.

19 That wasn't a secret. The  
20 pharmacists knew that as well, correct?

21 A. Right.

22 MR. KOBRIN: Object to form.

23 THE WITNESS: Yes.

24 QUESTIONS BY MR. GADDY:

25 Q. The way to improve that

1 68 percent rating would be to fill  
2 prescriptions more quickly, correct?

3 MR. KOBRIN: Object to form.

4 THE WITNESS: Not necessarily.

5 One way to improve that metric  
6 is to fill the -- is to fill  
7 prescriptions in the correct order to  
8 get prescriptions out more timely.

9 QUESTIONS BY MR. GADDY:

10 Q. Okay. The end goal, whether  
11 it's to do an individual prescription more  
12 quickly or do them in a different order, the  
13 end goal is to get prescriptions filled and  
14 out the door more quickly.

15 That's how you would improve  
16 that rating, correct?

17 MR. KOBRIN: Object to form.

18 Assumes facts not in evidence.

19 Contradicts the witness' testimony.

20 THE WITNESS: Not necessarily.

21 A way to get prescriptions out  
22 the door is to fill the correct  
23 prescriptions in an -- in the proper  
24 order to make sure that you are  
25 getting prescriptions out in a timely

1           manner.

2       QUESTIONS BY MR. GADDY:

3           Q.       Mr. Chunderlik, you agree that  
4       in the context of a pharmacist filling an  
5       opioid prescription that the more quickly  
6       they fill that prescription, the less time  
7       there is for a pharmacist to perform due  
8       diligence on that prescription, correct?

9           MR. KOBRIN:   Object to form.

10          THE WITNESS:   I don't -- I  
11       don't agree with that.

12       QUESTIONS BY MR. GADDY:

13          Q.       Mr. Chunderlik, do you agree  
14       that the more quickly a pharmacist fills an  
15       opioid prescription, the less time there is  
16       to check for red flags on that prescription?

17          MR. KOBRIN:   Object to form.

18          What do you mean by "fills,"  
19       Jeff?

20       QUESTIONS BY MR. GADDY:

21          Q.       Go ahead, Mr. Chunderlik.

22          MR. KOBRIN:   Are you including  
23       the DUR and the corresponding  
24       responsibility assessment in your --

25          MR. GADDY:   Josh, stop

1 speaking, man. Stop.

2 MR. KOBRIN: I don't know that

3 I'm --

4 QUESTIONS BY MR. GADDY:

5 Q. Mr. Chunderlik, answer the  
6 question, please.

7 A. I don't -- I don't necessarily  
8 agree with your conclusion.

9 Q. Okay. Well, my -- I think my  
10 question is pretty simple. If a prescription  
11 is generally filled in 20 minutes,  
12 hypothetically filled in 20 minutes, and you  
13 have this result, 68 percent approval of time  
14 to fill an order, and as a result of that, to  
15 try to improve the metric, you're now filling  
16 prescriptions in 15 minutes, you've just  
17 reduced the amount of time available to the  
18 pharmacist to do things like check for and  
19 clear red flags, correct?

20 MR. KOBRIN: Object to form.

21 QUESTIONS BY MR. GADDY:

22 Q. It's a pretty basic concept,  
23 right?

24 MR. KOBRIN: Object to form.

25 Misstates his testimony. Assumes

1 facts not in evidence and contradicts  
2 the evidence.

3 THE WITNESS: When you fill  
4 a -- to get prescriptions, you have to  
5 do the -- the prescriptions in the  
6 correct order to be able to increase  
7 this metric.

8 QUESTIONS BY MR. GADDY:

9 Q. You've said that a couple  
10 times, Mr. Chunderlik.

11 But my question is, if you're  
12 telling people to fill prescriptions more  
13 quickly, if that's one --

14 A. We're not telling -- we are not  
15 telling people to fill prescriptions more  
16 quickly. We are -- this -- this particular  
17 metric, or this particular focus, was to --  
18 to fill the prescriptions in the correct  
19 order.

20 Not necessarily -- this metric  
21 has nothing to do with filling prescriptions  
22 faster.

23 Q. Okay. Can I --

24 MR. KOBRIN: Let him ask you a  
25 question.

1 QUESTIONS BY MR. GADDY:

2 Q. Yeah, let me get a question  
3 out, Mr. Chunderlik. I don't think there was  
4 a question pending here, so I'm going to move  
5 to strike.

6 My question is whether or not  
7 the metric that's being tracked here is time  
8 to fill an order. Is that correct?

9 A. That's what it says on the  
10 screen.

11 Q. Okay. Let's look at  
12 P-HBC-5017. It's going to be your Tab  
13 Number 34.

14 MR. KOBRIN: Sorry. 34, Jeff?

15 MR. GADDY: Yes.

16 (Chunderlik Exhibit 11 marked  
17 for identification.)

18 QUESTIONS BY MR. GADDY:

19 Q. You with me, Mr. Chunderlik?

20 A. Yes.

21 Q. You see this e-mail,  
22 December 4, 2016?

23 Do you see that?

24 A. Yes.

25 Q. Weekly notes is what it's

1     called, right?

2             A.       Yes.

3             Q.       These were reports that went  
4     out every week at Giant Eagle, correct?

5             A.       I'm not -- I don't necessarily  
6     know.

7             Q.       Okay. And the subject of the  
8     e-mail is weekly notes, right?

9             A.       Yes.

10            Q.       And do you recall that there  
11    would be metrics and VOC responses sent  
12    around on a regular basis?

13                   MR. KOBRIN: Object to form.

14                   Assumes facts not in evidence. No  
15                   foundation.

16                   THE WITNESS: Ask your question  
17                   again?

18    QUESTIONS BY MR. GADDY:

19             Q.       Do you recall that there would  
20    be these metrics, VOC responses, sent around  
21    on a regular basis?

22                   MR. KOBRIN: Same objection.

23                   THE WITNESS: Sent around  
24                   chain-wide?

25

1 QUESTIONS BY MR. GADDY:

2 Q. Sent around to leadership.

3 MR. KOBRIN: Same objection.

4 THE WITNESS: This -- what I'm  
5 looking at right now shows from Chris  
6 Miller to groups within Chris Miller's  
7 grouping of e-mail. I don't know who  
8 would be part of this e-mail from  
9 this -- from this -- I'm not sure.

10 QUESTIONS BY MR. GADDY:

11 Q. Turn with me, if you would,  
12 please, to Bates ending 59210.

13 A. I see that.

14 Q. Do you see that,  
15 Mr. Chunderlik?

16 A. Yes.

17 Q. And you see a customer  
18 satisfaction scorecard here?

19 A. Yes.

20 Q. And it has different data  
21 points for -- it has the store at the very  
22 top of the page, and then it has different  
23 data points and results for that particular  
24 store?

25 A. Yes.

1 Q. And in the middle of the page  
2 there it says, "Where should I focus."

3 Do you see that?

4 A. Yes.

5 Q. And the stores here are told to  
6 focus on "speed and ease of checkout."

7 And what's the other thing  
8 they're told to focus on, Mr. Chunderlik?

9 MR. KOBRIN: Objection.

10 THE WITNESS: It says, "Time to  
11 fill order."

12 QUESTIONS BY MR. GADDY:

13 Q. Flip the page for me, please,  
14 and let's look at the next one.

15 MR. KOBRIN: "From order."

16 QUESTIONS BY MR. GADDY:

17 Q. Time to fill order there?

18 MR. KOBRIN: Object to form.

19 Misstates the evidence. It says "time  
20 to fill from order."

21 MR. GADDY: Thanks, Josh.

22 MR. KOBRIN: No problem.

23 QUESTIONS BY MR. GADDY:

24 Q. Do you see that,  
25 Mr. Chunderlik?

1 A. Yes.

2 Q. Turn the page again.

3 Time to fill from order there  
4 again there?

5 A. Yes.

6 Q. Turn the page again.

7 A. Yes.

8 Q. Time to fill from order there  
9 again?

10 A. Yes.

11 MR. KOBRIN: Any of these  
12 stores in the Track 3 jurisdiction?

13 QUESTIONS BY MR. GADDY:

14 Q. Do you see, Mr. Chunderlik, as  
15 we turn to page after page, time to fill from  
16 order is constantly listed as what the stores  
17 are being told to focus on?

18 MR. KOBRIN: Object to form.  
19 States facts not in evidence. No  
20 foundation.

21 QUESTIONS BY MR. GADDY:

22 Q. Do you see that,  
23 Mr. Chunderlik?

24 A. Okay.

25 MR. KOBRIN: He can say that it

1           says it, Jeff. He can't testify to  
2           what they're asking. He's not on this  
3           e-mail. You have no testimony he's  
4           ever seen this document or knows what  
5           it is.

6       QUESTIONS BY MR. GADDY:

7           Q.       Did I miss any that say  
8           something different, Mr. Chunderlik?

9           A.       Just the first time you  
10          mentioned it, when Josh corrected you.

11          Q.       You mean when I got the phrase  
12          wrong?

13          A.       Yes.

14          Q.       Okay. Turn with me, please, to  
15          59239, Bates number 59239.

16                  GINA VELDMAN: I'm sorry, Jeff,  
17          are we on the same document?

18                  MR. GADDY: Yes, ma'am.

19                  GINA VELDMAN: Okay.

20                  MR. KOBRIN: How much time have  
21          we got left? How many minutes?

22                  VIDEOGRAPHER: 2:57 on record.

23                  MR. KOBRIN: Thank you.

24       QUESTIONS BY MR. GADDY:

25          Q.       You with me, Mr. Chunderlik?

1           A.       Yes.

2           Q.       Okay. Another voice of  
3 customer, customer satisfaction scorecard.

4                   Do you see that?

5           A.       Yes.

6           Q.       Top left, areas for focus, once  
7 again, time to fill from order.

8                   We see that there?

9           MR. KOBRIN: Where do you see  
10 that?

11                  THE WITNESS: Yes.

12 QUESTIONS BY MR. GADDY:

13           Q.       And then a little bit down,  
14 just under the graph, now we're actually  
15 giving the pharmacy their ranking amongst the  
16 other stores.

17                   Do you see that?

18           MR. KOBRIN: Object to form.

19 QUESTIONS BY MR. GADDY:

20           Q.       See that?

21           MR. KOBRIN: I don't see a  
22 ranking.

23                  THE WITNESS: On the left-hand  
24 side?

25

1 QUESTIONS BY MR. GADDY:

2 Q. Yeah.

3 Do you see that,  
4 Mr. Chunderlik?

5 A. Yes.

6 (Chunderlik Exhibit 12 marked  
7 for identification.)

8 QUESTIONS BY MR. GADDY:

9 Q. Okay. Last document we're  
10 going to look at today is P-HBC-34. Should  
11 be your tab -- or excuse me. Sorry, wrong  
12 one. P-HBC-35. Should be your Tab  
13 Number 43.

14 Do you see that?

15 A. I'm working my way towards it.  
16 I have it.

17 Q. You see this is a February 12,  
18 2018 e-mail?

19 MR. KOBRIN: Where are you?

20 Tab what?

21 MR. GADDY: I think 43.

22 THE WITNESS: 43.

23 MR. KOBRIN: Sorry, I got it.

24 QUESTIONS BY MR. GADDY:

25 Q. You with me, Mr. Chunderlik?

1           A.       Yes.

2           Q.       And you see the subject again,  
3 we got the weekly -- I think this time it  
4 says "weekly summary."

5                   Do you see that? "Forward, hot  
6 topics, weekly summary"?

7           A.       Yes.

8           Q.       And it looks like you're  
9 actually included on this e-mail, right, at  
10 the top? At the end of the cc line?

11          A.       Yes.

12          Q.       Okay. And these, I guess, were  
13 the type of e-mails I was talking about when  
14 I was -- when I was mentioning communications  
15 going around to the leadership, correct?

16                   MR. KOBRIN: Object to form.

17                   THE WITNESS: I believe so.

18 QUESTIONS BY MR. GADDY:

19          Q.       Okay. Flip with me, if you  
20 would, please -- we're going to go towards  
21 the back of the document, Bates number 1304.

22                   You with me, Mr. Chunderlik?

23          A.       I'm -- 1304?

24          Q.       Yes, sir.

25          A.       Okay. I have it.

1 Q. Okay. And you see here  
2 additional metrics that are being tracked at  
3 the pharmacy level listed within this  
4 spreadsheet.

5 Do you see that?

6 A. Yes.

7 Q. Okay. And you might have to  
8 turn your head sideways to read some of  
9 these, but do you see -- it's kind of under  
10 the Y in the YTD. There's one for promise  
11 time.

12 Do you see that?

13 A. Yes.

14 Q. Okay. And what was that  
15 tracking?

16 MR. KOBRIN: Object to form.

17 No foundation. And out of time.

18 THE WITNESS: That would have  
19 been if we were able to deliver to the  
20 prescription -- to have the  
21 prescription ready for the patient  
22 when they arrived at the store or when  
23 they requested to have it completed.

24 QUESTIONS BY MR. GADDY:

25 Q. Okay. And that was one of the

1 things that the pharmacist knew that was  
2 being looked at from corporate, correct?

3 MR. KOBRIN: Object to form.

4 No foundation. Out of time.

5 THE WITNESS: I think so.

6 QUESTIONS BY MR. GADDY:

7 Q. If you go over a couple -- it  
8 looks like four or five, there's one more  
9 wait time RX.

10 Do you see that?

11 A. Yes.

12 Q. And again, something else that  
13 corporate was monitoring was how long people  
14 had to wait to have their prescriptions  
15 filled, correct?

16 MR. KOBRIN: Object to form.

17 No foundation. Out of time.

18 THE WITNESS: Yes.

19 QUESTIONS BY MR. GADDY:

20 Q. And again, that's something the  
21 pharmacist knew was being collected and  
22 looked at by corporate, correct?

23 MR. KOBRIN: Object to form.

24 No foundation. Out of time.

25 THE WITNESS: Yes.

1 QUESTIONS BY MR. GADDY:

2 Q. And let's go and look at the  
3 last two on the right side of the page.

4 A. My copy is a little small and  
5 the pictures are on the -- how can I get  
6 those pictures of everybody on the other  
7 side? Is there a way for me to do that? Can  
8 I drag it?

9 MR. KOBRIN: Yeah, you can drag  
10 the block of photos --

11 THE WITNESS: Okay.

12 MR. KOBRIN: -- at the top.

13 THE WITNESS: Okay. I did.

14 QUESTIONS BY MR. GADDY:

15 Q. Okay. So it should be work  
16 flow, average minute prepared to promised,  
17 six-week average.

18 Do you see that?

19 A. Yes.

20 Q. Okay. And again, that's  
21 another metric that was being tracked at  
22 Giant Eagle. And it looks like if you look  
23 down, it looked like it was being tracked  
24 down to the -- to the tenth of a minute.

25 Do you see that?

1 MR. KOBRIN: Object to form.

2 No foundation. Out of time.

3 THE WITNESS: Yes.

4 QUESTIONS BY MR. GADDY:

5 Q. Okay. And the last one is  
6 walk-up waiter, percent complete within a 15  
7 to 20-minute time period.

8 Do you see that?

9 A. Yes.

10 MR. KOBRIN: Objection.

11 QUESTIONS BY MR. GADDY:

12 Q. And that was also being tracked  
13 by corporate, and the pharmacists were aware  
14 of that, correct?

15 MR. KOBRIN: Same objection.

16 No foundation. Out of time.

17 THE WITNESS: My understanding  
18 is we're out of time.

19 MR. KOBRIN: You can answer it,  
20 if you know, George.

21 THE WITNESS: Yes.

22 MR. GADDY: That's all the  
23 questions I have for you this morning.  
24 I appreciate your time and being  
25 willing to come back and participate.

1 THE WITNESS: Thank you.

2 MR. KOBRIN: I got a couple  
3 questions. I'll be very quick. I  
4 know you want to get out of here,  
5 Mr. Chunderlik.

6 Do you want to take a quick  
7 break?

8 THE WITNESS: Could we take --  
9 could we take a quick break? Maybe  
10 ten minutes?

11 MR. KOBRIN: I'm okay with  
12 that. Are you okay -- if you're okay  
13 with that Mr. Chunderlik. I know you  
14 want to get back to your other job.

15 Are you guys okay with that,  
16 Jeff?

17 MR. GADDY: Yeah, whatever you  
18 want.

19 MR. KOBRIN: It's 1:04.

20 THE WITNESS: I'll be back by  
21 1:15? Yes.

22 VIDEOGRAPHER: The time is  
23 1:04 p.m. We are off the record.

24 (Off the record at 1:04 p.m.)

25 VIDEOGRAPHER: The time is

1 1:17 p.m. We are back on the record.

2 CROSS-EXAMINATION

3 QUESTIONS BY MR. KOBRIN:

4 Q. Mr. Chunderlik, thank you for  
5 taking the time today to talk to us. I will  
6 try to be brief in my redirect.

7 If you could turn to Tab 47? I  
8 think it's in the second binder. It's the  
9 PowerPoint presentation that Mr. Gaddy was  
10 talking to you about with regard to time to  
11 fill an order.

12 A. Okay. Which specific page in  
13 that slide?

14 Q. It's page 8 and 9, was I think  
15 where you looked at with Mr. Gaddy.

16 A. Yes.

17 Q. Do you recall Mr. Gaddy asking  
18 you questions about time to fill an order  
19 attribute?

20 A. Yes.

21 Q. And that's part of the service  
22 focus attributes on slide 8.

23 Do you recall that?

24 A. Yes.

25 Q. And he had you look at slide 9,

1     which talked about a few focus attributes  
2     that have the lowest scores.

3                     Do you see that?

4             A.       Yes.

5             Q.       Is there anything on this slide  
6     regarding focusing on the time to fill an  
7     order attribute about speeding up the filling  
8     of prescriptions?

9             A.       No.

10            Q.       Is there anything on this slide  
11   of the time to fill an attribute, time to  
12   fill an order attribute, about filling  
13   prescriptions more quickly?

14            A.       No.

15            Q.       Is there anything on this slide  
16   about speeding up the drug utilization or DUR  
17   review?

18            A.       No.

19            Q.       Is there anything on this slide  
20   about speeding up the corresponding  
21   responsibility analysis or any other due  
22   diligence on a prescription?

23            A.       No.

24            Q.       If you read with me, under time  
25   to fill an order it says, "Use the dashboard

1 to determine ahead or behind and where you  
2 are behind."

3 Do you see that?

4 A. Yes.

5 Q. And "where" is in all caps.

6 Do you see that?

7 A. Yes.

8 Q. Do you have an understanding of  
9 why "where" is all in all caps and what is  
10 meant by "where are you behind"?

11 MR. GADDY: Object to form.

12 THE WITNESS: My understanding  
13 would be that we are behind -- if  
14 you're filling -- if you're not  
15 filling the correct prescriptions at  
16 the right time and you're filling  
17 prescriptions out of order, it may get  
18 you into a situation where you are  
19 behind and you're not filling  
20 prescriptions that are due earlier --  
21 you're filling prescriptions that are  
22 due later, possibly later, in the day  
23 versus the ones that you should be  
24 working on that came in and have  
25 earlier times for patients to get.

1 QUESTIONS BY MR. KOBRIN:

2 Q. Is the focus of this -- strike  
3 that.

4 Is this slide and its focus on  
5 the attribute time to fill an order, is that  
6 encouraging pharmacists to speed up  
7 prescriptions?

8 MR. GADDY: Object to form.

9 THE WITNESS: No. No, this is  
10 not -- this is not intended to have  
11 pharmacists -- this attribute is not  
12 intended to have pharmacists speed up.

13 It is intended so that they can  
14 fill prescriptions in the proper  
15 order, more efficiently, so that they  
16 can leave time to do the proper DUR,  
17 the proper checks on a prescription,  
18 to make sure that those prescriptions  
19 are filled correctly, within the  
20 guidelines, and that they can get  
21 those prescriptions out to a patient  
22 when it is expected that they get that  
23 prescription out.

24 It has nothing to do with a  
25 time component. It has to do with

1           filling prescriptions in the correct  
2           order for efficiency and making  
3           sure -- giving pharmacists enough time  
4           to do those things, DUR, checking  
5           OARRS, and some of the other things  
6           that they must do, or have to do, in  
7           order to fill that prescription  
8           correctly for the patient, and in the  
9           most safe, efficient manner.

10       QUESTIONS BY MR. KOBRIN:

11           Q.       Can you give the jury an  
12       example of why this order thing matters?

13           A.       I'll give you an example  
14       that -- let's say a patient calls in --  
15       patients call in refills, and they say, I'm  
16       not going to be into the pharmacy until six  
17       o'clock this evening to pick up this  
18       prescription.

19                   And we have prescriptions that  
20       are ahead of those prescriptions being  
21       filled. You know, pharmacists have a  
22       tendency to, you know, fill prescriptions as  
23       they come in, with no regards to when the  
24       patient was picking that prescription up.

25                   So if they're working on

1 prescriptions that patients are due at six  
2 o'clock in the evening and they're not  
3 working on prescriptions that come into the  
4 pharmacy -- you know, maybe a patient is  
5 waiting, or maybe a patient is coming in  
6 sooner than six o'clock, you know, and  
7 they're working on things out of order.  
8 That's going to create -- that's going to  
9 complicate this working ahead or behind in  
10 the time to fill an order.

11 Q. Thank you, Mr. Chunderlik.

12 And if you'll bear with me, I  
13 have some big binders. Sorry.

14 I'm going to switch binders to  
15 the first binder that Mr. Gaddy sent you.

16 You got the first binder in  
17 front of you, Mr. Chunderlik?

18 A. Yes.

19 Q. All right. Go to tab -- do  
20 these in order. Go to Tab 6.

21 A. Yes.

22 Q. There is -- do you recall  
23 Mr. Gaddy asking you about this e-mail  
24 regarding pharmacy team leader noting that  
25 one of the medical practices in her region

1 had been accused of fraudulent billing?

2 A. Yes.

3 Q. And Mr. Gaddy asked you why you  
4 wouldn't cut that practice off entirely so  
5 you weren't filling prescriptions for any  
6 patients coming from that practice.

7 Do you recall those questions?

8 MR. GADDY: Objection.

9 Objection to form.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. KOBRIN:

12 Q. Would you take notice of the  
13 fact that this medical practice was engaged  
14 in fraudulent billing when you filled the  
15 prescription?

16 A. I'm sorry, could you repeat  
17 that?

18 Q. When you're filling a  
19 prescription, if you knew that this practice  
20 had been accused -- or there's allegations of  
21 fraudulent billing, would that factor into  
22 your consideration when you were doing due  
23 diligence on the prescription?

24 Might that be a factor you  
25 would consider, among other factors, while

1     you were filling the prescription -- or when  
2     you were analyzing -- strike that.

3                     When you were -- if you knew,  
4     would you have -- strike that.

5                     If a pharmacy were filling a  
6     prescription from this practice, would you  
7     agree that they should consider, among other  
8     things, the fact that the practice had been  
9     accused of fraudulent billing?

10            A.       That might -- that might be one  
11     of many things that they would consider, but  
12     the fact that -- you know, fraudulent billing  
13     has nothing to do with filling a  
14     prescription.

15                     You know, a patient -- there's  
16     no reason to penalize patients for errors  
17     that an office might be making in billing  
18     their -- their services to a patient.

19                     Fraudulent -- fraudulent  
20     billing here, I don't know -- the fraudulent  
21     billing on behalf of a physician has nothing  
22     to do with filling a prescription written by  
23     that physician.

24            Q.       So while it would be a factor,  
25     you might not presume that a patient is shady

1 just because the practice is, quote/unquote,  
2 shady in one way?

3 MR. GADDY: Objection to form.

4 THE WITNESS: No.

5 QUESTIONS BY MR. KOBRIN:

6 Q. No what, Mr. Chunderlik?

7 A. Just because -- if a practice  
8 is shady in billing, I would not assume that  
9 they are shady in other areas of practice.

10 Q. Would you assume that their  
11 patients are all shady?

12 A. Absolutely not. A patient has  
13 nothing to do -- you know, patients, when  
14 they get bills from the physician, maybe they  
15 read over them. But just because a physician  
16 is having issues billing and providing --  
17 billing for the provision of their services  
18 has nothing to do with treating the patient.

19 Q. Thank you.

20 Go to Tab 8.

21 A. I'm sorry?

22 Q. Flip to Tab 8 in the same  
23 binder.

24 A. Yes.

25 Q. This is the presentation

1     that -- there's no page numbers on it, but  
2     Mr. Gaddy had you look at the first slide  
3     that said "prescription drug abuse epidemic."  
4     It has a chart about drug overdose and  
5     overdose death rates.

6                     Do you see that?

7             A.       Yes.

8             Q.       And he had you look at this  
9     chart where it says, "Drug overdose death  
10    rates in the US have more than tripled since  
11    1990."

12                    Do you see that?

13            A.       Yes.

14            Q.       There's a footnote after 1990.

15                    Do you see that?

16            A.       Yes, I do.

17            Q.       He didn't have you read what it  
18    says in that footnote.

19                    Could you read what it says in  
20    that footnote to complete the record?

21            A.       I'm going to remove this so  
22    that I can bring it just a little bit closer.

23            Q.       It is very small.

24            A.       All right. It's a little bit  
25    fuzzy, but it says, "Deaths are those for

1    which poisoning by drugs, illicit  
2    prescription and over-the-counter" -- I can't  
3    read the next word -- "the underlying -- was  
4    the underlying cause."   Excuse me.

5           Q.       I think that's right.

6                   Now, does that include overdose  
7    deaths by cocaine?

8           A.       Possibly.   It could, yes.

9           Q.       If there were overdose deaths  
10   from cocaine, would they be included in that  
11   number?

12          A.       I believe they would, according  
13   to the way this is -- this footnote is  
14   listed.

15          Q.       Would that include deaths by  
16   heroin?

17          A.       As the way this footnote is  
18   listed, I would believe so.

19          Q.       Would that include overdose  
20   deaths caused by use of methamphetamines?

21          A.       Yes.

22          Q.       If you would turn with me to  
23   Tab 10.

24          A.       And also, before we do that, I  
25   just want to mention that it lists "and"

1 other" -- "and over-the-counter drugs" is  
2 included in that as well. Included in that  
3 would be, you know, things like  
4 pseudoephedrine. Could be overdose of  
5 ibuprofen because it -- it lists  
6 over-the-counter drugs.

7 Q. Thank you.

8 If you'd turn to Tab 12 for me,  
9 and then we'll go back to Tab 10.

10 A. Okay. Yes.

11 Q. At the page marked 30277, it's  
12 got the notes for the slides here. There are  
13 notes for slide 1, slide 2 and slide 3?

14 A. Yes.

15 Q. Do you recall that Mr. Gaddy  
16 asked you questions about the notes for  
17 slide 3 and he had you read a lot of that  
18 into the record, or you read a lot of that  
19 into the record?

20 A. Yes.

21 Q. And this is about controlled  
22 substance compliance and corresponding  
23 responsibility, correct?

24 A. Yes.

25 Q. At the bottom, one of the

1 things that Mr. Gaddy asked you about was  
2 that last sentence about the policies and  
3 procedures to follow and monitor activities.

4 And you had said that the  
5 companies that do not have tight policies and  
6 procedures might find themselves facing huge  
7 fines and closure of facilities for extreme  
8 violations.

9 Do you see that?

10 A. Yes, I do.

11 Q. Did Giant Eagle ever commit any  
12 extreme violations?

13 MR. GADDY: Objection to form.

14 THE WITNESS: No.

15 MR. KOBRIN: What's the form  
16 objection, Jeff?

17 MR. GADDY: I don't know what  
18 you mean by "extreme," Josh.

19 MR. KOBRIN: Well, you asked  
20 him about it.

21 QUESTIONS BY MR. KOBRIN:

22 Q. So within the same definitions  
23 that Mr. Gaddy asked you about regarding  
24 this, would you characterize Giant Eagle as  
25 having committed any extreme violations?

1           A.       No.

2                   MR. GADDY:   Object to form.

3   QUESTIONS BY MR. KOBRIN:

4           Q.       Would you characterize Giant  
5   Eagle as ever having received any huge fines?

6                   MR. GADDY:   Objection to form.

7                   THE WITNESS:   No.

8   QUESTIONS BY MR. KOBRIN:

9           Q.       To your knowledge, did Giant  
10   Eagle ever commit any extreme violations?

11                  MR. GADDY:   Objection to form.

12                  THE WITNESS:   No.

13   QUESTIONS BY MR. KOBRIN:

14           Q.       To your knowledge, did any  
15   entity, government, law enforcement, impose  
16   any huge fines on Giant Eagle?

17                  MR. GADDY:   Objection to form.

18                  THE WITNESS:   No.

19   QUESTIONS BY MR. KOBRIN:

20           Q.       Flip back to Tab 10.   We're  
21   looking at the second page.   You spent a lot  
22   of time on the second page of this  
23   corresponding -- excuse me.   Strike that.

24                   When Mr. Gaddy was asking you  
25   questions, you looked at this controlled

1 substance dispensing guideline, and you spent  
2 time going through the red flags at the  
3 bottom of the second page.

4 Do you see that?

5 A. Yes.

6 Q. All right. One of the things  
7 he asked you about was flag number 3 at the  
8 bottom of the second page, why you included  
9 the formulations of hydrocodone and  
10 alprazolam but you didn't include oxycodone  
11 or other opioids.

12 Do you recall that?

13 A. Yes.

14 Q. If you look up at number 1,  
15 that red flag, prescriptions written together  
16 for oxycodone, hydrocodone, alprazolam and  
17 carisoprodol, that includes oxycodone and  
18 hydrocodone being mixed with alprazolam in  
19 that red flag, doesn't it?

20 A. Yes. Yes, it does.

21 Q. Mr. Gaddy also asked you about  
22 number 5 on the top of the third page, the  
23 red flag for further than expected distances  
24 of the patient and/or medical provider from  
25 the pharmacy.

1 Do you see that?

2 A. Yes, I do.

3 Q. And he asked you whether there  
4 was kind of a distance that Giant Eagle  
5 recommended beyond which a pharmacist should  
6 be aware or should check or something like  
7 that.

8 Do you recall that?

9 A. Yes.

10 Q. Does Giant Eagle -- strike  
11 that.

12 Is there a reason that Giant  
13 Eagle might not be able to give a standard  
14 distance beyond which there would be a  
15 problem if the patient and/or medical  
16 provider was that distance from the pharmacy?

17 MR. GADDY: Objection to form.

18 THE WITNESS: Our stores have  
19 different geographical locations.  
20 Some are inner city, some are rural.  
21 And if we -- if we tried to apply a  
22 blanket distance or geographical  
23 distance, it's not going to apply to  
24 all stores.

25 We have to take into

1           consideration geographical location of  
2           the stores in relationship to things  
3           like rural, inner city, suburb and  
4           those types of things. So it's  
5           impossible to just apply a standard or  
6           a blanket distance that we would try  
7           to adhere to.

8       QUESTIONS BY MR. KOBRIN:

9           Q.       Is the pharmacist in a good  
10          position to assess the distance because  
11          they're in the community already?

12                 MR. GADDY: Object to form.

13                 THE WITNESS: I'm sorry, I  
14          didn't quite hear that.

15       QUESTIONS BY MR. KOBRIN:

16           Q.       Would the pharmacist working at  
17          any particular pharmacy be in a better  
18          position to assess what distances are  
19          expected and what are not?

20                 MR. GADDY: Same objection.

21       QUESTIONS BY MR. KOBRIN:

22           Q.       Would a pharmacist --

23           A.       The pharmacist would have a  
24          better idea than just trying to apply a  
25          blanket number to the geographical distance

1 to apply it to this red flag.

2 Q. For number 6, Mr. Gaddy asked a  
3 lot of questions about the percentage of  
4 pharmacy business devoted to filling  
5 controlled substances, and there seemed to be  
6 a lot of confusion as to what that number 6  
7 red flag meant.

8 Is that red flag about the  
9 percentage of the pharmacy's business overall  
10 or the pharmacy's business as applied to a  
11 particular customer?

12 A. I would -- this really applies  
13 to the business as it applies to a particular  
14 customer versus the business as a whole.

15 Q. Go down to the bottom under the  
16 documentation part on page 3.

17 Do you recall that Mr. Gaddy  
18 asked you where -- strike that.

19 Do you recall Mr. Gaddy asking  
20 you about the locations where pharmacists  
21 should document that they have taken steps to  
22 verify any questions that they had about  
23 prescriptions?

24 A. Yes.

25 Q. And Mr. Gaddy asked you about

1 essentially putting in the notes fields in  
2 the dispensing software or writing it on the  
3 face of the script, correct?

4 A. Yes.

5 Q. If a pharmacist chose to write  
6 a note on the face of the script -- strike  
7 that.

8 Mr. Gaddy asked you also about  
9 how anyone would ever see the note on the  
10 face of the script and whether they would  
11 have to go into the paper files in order to  
12 review that prescription.

13 A. Yes.

14 Q. Do you recall that?

15 A. Yes, I do.

16 Q. In order to see a note on the  
17 face of a prescription, would somebody have  
18 to go into the paper files or would there be  
19 another way for someone to follow up and see  
20 the note on the face of the prescription?

21 A. There is another way of -- all  
22 of our prescriptions are scanned into the  
23 system, so they wouldn't necessarily have to  
24 go to -- as I recall, we talked about how the  
25 prescriptions are filed in the yellow manila

1 folders that we use.

2                   So a pharmacist, if they wanted  
3 to review a note, wouldn't have to -- and if  
4 it was written on the face of the  
5 prescription, wouldn't have to necessarily go  
6 to that folder. They can -- they can view  
7 the prescription, the scanned prescription,  
8 on their screen, and if the prescription --  
9 if the note was written on the back of the  
10 prescription, they also have the ability to  
11 view the back of that prescription as well  
12 from that scanned prescription.

13           Q.       And that can be viewed across  
14 the chain or only in the particular pharmacy  
15 where the note was taken?

16           A.       It would only be visible in  
17 where the pharmacist -- in the specific  
18 pharmacy.

19           Q.       It wouldn't be part of the  
20 RX.com patient profile?

21           A.       It would if that prescription  
22 was being transferred to another pharmacy.

23           Q.       Do all the pharmacists have  
24 access to the RX.com system?

25           A.       Yes, they do.

1 Q. And they can all see the  
2 prescriptions in that system, correct?

3 MR. GADDY: Objection to form.

4 That's not what he said, Josh.

5 QUESTIONS BY MR. KOBRIN:

6 Q. Can they see the prescriptions  
7 in the system through RX.com?

8 MR. GADDY: That's not what he  
9 said again.

10 THE WITNESS: Yes.

11 QUESTIONS BY MR. KOBRIN:

12 Q. I'm not -- it doesn't matter  
13 what he said.

14 A. As I recall, I believe that  
15 they can.

16 Q. Just to make sure that's clean,  
17 can all pharmacists see prescriptions from  
18 other -- from pharmacies across the chain in  
19 RX.com?

20 MR. GADDY: Objection to form.

21 He said only if they're being  
22 transferred.

23 THE WITNESS: I believe so.

24 QUESTIONS BY MR. KOBRIN:

25 Q. If we could take that

1 information we just learned and flip to  
2 page -- to Tab 22 of the binder.

3 A. Yes, I have it.

4 Q. Mr. Gaddy asked you here as  
5 well about note-taking on the face of a  
6 prescription.

7 Do you recall that?

8 A. Yes.

9 Q. So these notes, if they were on  
10 the face of a prescription, could also be  
11 viewed within the Giant Eagle dispensing  
12 system, correct?

13 MR. GADDY: Objection to form.  
14 Mischaracterizes.

15 THE WITNESS: Yes.

16 QUESTIONS BY MR. KOBRIN:

17 Q. So based on your prior  
18 testimony, could any notes that were entered  
19 on the face of a prescription that is then  
20 scanned into the dispensing system be viewed  
21 within the dispensing system at Giant Eagle  
22 pharmacies?

23 MR. GADDY: Are you asking  
24 about the testimony where he said it  
25 couldn't be or the testimony where he

1           said it could be? I think you need to  
2           be a little more clear.

3       QUESTIONS BY MR. KOBRIN:

4           Q.       Mr. Chunderlik, can the scanned  
5       notes on the face of a prescription be viewed  
6       within the dispensing system at Giant Eagle  
7       pharmacies?

8                   There's been a little bit of  
9       convoluted testimony on that. I'd like you  
10      to just let us know.

11                   Can the scanned notes on the  
12      face of a prescription or on the back of a  
13      prescription be viewed within the dispensing  
14      system at Giant Eagle pharmacies?

15                   MR. GADDY: Objection to form.

16                   THE WITNESS: I believe so.

17      QUESTIONS BY MR. KOBRIN:

18           Q.       Great.

19                   So if notes were taken  
20      regarding a DUR review on the face of a  
21      prescription or on the back of a  
22      prescription, just to clarify the record  
23      because there has been a little confusion,  
24      those notes could be viewed within the  
25      dispensing system at Giant Eagle pharmacies,

1 correct?

2 MR. GADDY: Objection to form.

3 Asked and answered.

4 QUESTIONS BY MR. KOBRIN:

5 Q. Could those notes -- let's  
6 clarify it again then.

7 If notes were taken regarding a  
8 review, a DUR review, on the face of a  
9 prescription or on the back of a  
10 prescription, could those notes be viewed  
11 within the dispensing system at Giant Eagle  
12 pharmacies?

13 MR. GADDY: Objection to form.

14 Asked and answered.

15 THE WITNESS: I believe so.

16 QUESTIONS BY MR. KOBRIN:

17 Q. If a DUR note is put on the  
18 face of a prescription or the back of a  
19 prescription, that DUR note could be viewed  
20 within the Giant Eagle dispensing system.

21 Is that accurate?

22 MR. GADDY: Objection. Asked  
23 and answered.

24 THE WITNESS: Yes.

25

1 QUESTIONS BY MR. KOBRIN:

2 Q. More to the point, Mr. Gaddy  
3 asked you about drug utilization review  
4 notes, correct?

5 A. Yes.

6 Q. Okay. If there were a critical  
7 DUR flag that popped up or -- for clarity,  
8 let's not call it a flag.

9 If there were a critical DUR  
10 notice --

11 A. Yes.

12 Q. -- during the review of a  
13 prescription, a pharmacist could choose to  
14 put a note regarding that DUR notice and how  
15 they resolved it on the face of a  
16 prescription?

17 A. Yes.

18 Q. Okay. Would they have to also  
19 put a note regarding how they resolved that  
20 DUR notice in the Giant Eagle dispensing  
21 system?

22 A. Yes, they would have to do  
23 that.

24 Q. And what would happen if they  
25 didn't do that?

1           A.       It would not let them move  
2 forward in the work flow. That prescription  
3 would not work forward in work flow.

4           Q.       So in that case there would  
5 have to be a note in the Giant Eagle  
6 dispensing entered directly rather than  
7 through the scan of a physical prescription?

8           A.       Yes.

9           Q.       Thank you, Mr. Chunderlik.

10                  MR. GADDY: Are you done, Josh,  
11 or were you just thinking over that  
12 answer?

13                  MR. KOBRIN: Sorry?

14                  No, we're done. Thank you,  
15 Jeff.

16                  MR. GADDY: Okay.

17                  REDIRECT EXAMINATION

18       QUESTIONS BY MR. GADDY:

19           Q.       Mr. Chunderlik, just a couple  
20 follow-up.

21                  When you were looking at the  
22 graph showing the increase in deaths from  
23 drug overdoses --

24                  You remember that?

25           A.       Yes.

1           Q.       -- were you attempting to  
2     minimize in any way the opioid epidemic and  
3     the abuse and the death from that that's  
4     happened that you've already told us about?

5                   MR. KOBRIN:   Faded out a little  
6           on me there, Jeff.

7                   I don't know if it's the system  
8           overall.

9     QUESTIONS BY MR. GADDY:

10           Q.       Did you hear me,  
11     Mr. Chunderlik, or do you need me to ask it  
12     again?

13           A.       Please ask me again.

14           Q.       Sure.

15                   When you were looking at that  
16     graph with Mr. Kobrin a few minutes ago and  
17     you were talking about the types of deaths  
18     that were illustrated within that graph, the  
19     CDC graph --

20                   Do you remember that?

21           A.       Yes.

22           Q.       -- was it your intention to  
23     minimize the number of deaths that have come  
24     from the opioid epidemic that you've already  
25     told us that you are aware of and cognizant

1 of when you came back to Giant Eagle in 2008?

2 A. No, that was not my intention,  
3 to minimize.

4 Q. You --

5 A. That was not my intention.

6 Q. You agree this is a serious,  
7 serious problem, right?

8 MR. KOBRIN: Object to form.

9 THE WITNESS: Yes.

10 MR. KOBRIN: You can answer.

11 QUESTIONS BY MR. GADDY:

12 Q. Okay. I mean, people --  
13 according to this, 100 people are dying every  
14 day from overdoses. And you know that that  
15 continued throughout your tenure at Giant  
16 Eagle, correct?

17 MR. KOBRIN: Object to form.

18 Assumes facts not in evidence, and no  
19 foundation.

20 THE WITNESS: I don't -- I  
21 don't necessarily know that to be  
22 true.

23 QUESTIONS BY MR. GADDY:

24 Q. You don't know that the opioid  
25 epidemic continued during the time while you

1     were at Giant Eagle and that it continues  
2     today?

3             A.       No, I'm referring to 100 people  
4     die from drug overdoses every day in the  
5     United States.

6             Q.       Are you comfortable saying that  
7     there are people dying every day in the  
8     United States from opioid overdoses?

9             MR. KOBRIN:   Object to form.

10            THE WITNESS:   From what I have  
11     seen, that could be a possibility.

12     QUESTIONS BY MR. GADDY:

13            Q.       And that's a serious problem  
14     that we should face seriously as a country,  
15     correct, Mr. Chunderlik?

16            A.       Yes, we should.   Absolutely.

17            Q.       You were asked a couple of  
18     questions about the geographical distance red  
19     flag.

20                       Do you recall that?

21            A.       Yes.

22            Q.       And you provided some testimony  
23     about how there are stores within different  
24     communities and different -- probably sort of  
25     different customer bases, different

1 demographics, things like that.

2 Is that fair?

3 A. Yes.

4 Q. Okay. What I'm interested in  
5 understanding is what tools Giant Eagle  
6 provided to their pharmacists.

7 What I know is that I can hop  
8 on Google and I can type in two addresses and  
9 instantaneously see the difference in  
10 distance, the distance between two locations.

11 Are there any tools within the  
12 Giant Eagle dispensing system that provided  
13 any type of information like that to the  
14 pharmacists that would allow them to take  
15 that information and apply it to the  
16 situation that presents to them in their  
17 pharmacy?

18 MR. KOBRIN: Object to form.  
19 Beyond the scope of direct -- of  
20 redirect.

21 THE WITNESS: Not within the  
22 Giant Eagle filling software. But all  
23 of our stores had access to Google,  
24 just like you described. They could  
25 have taken the time to do that.

1 QUESTIONS BY MR. GADDY:

2 Q. Okay. Well, did I miss that in  
3 the controlled substance dispensing guideline  
4 where it encouraged pharmacists to hop on  
5 Google and see -- look into things like the  
6 distance? Is that something that was  
7 included in the material provided to the  
8 pharmacist or not?

9 A. No, that was not included in  
10 there.

11 Q. Okay. I think the last thing  
12 that I want to ask you about, just because I  
13 wasn't entirely clear about what your answer  
14 was, but your attorney asked you questions  
15 about whether or not you would consider as a  
16 factor in filling a prescription from a pain  
17 clinic whose doctors were being investigated  
18 for fraudulent billing practices, and he  
19 asked you about them being shady in one way,  
20 how would that impact your pharmacists -- or  
21 I guess how should that impact your  
22 pharmacists' decision on whether or not to  
23 fill an opioid prescription.

24 I couldn't -- I'm not quite  
25 sure that I understood your final position on

1     that.

2                     Was it that it's not a factor  
3     to be considered, that they're shady in one  
4     way and may not be shady in another, or is it  
5     a factor to consider?

6             A.       It's a factor, but I don't  
7     consider it, you know -- you know, if I was  
8     looking at the different factors, red flags,  
9     that would not be something that would  
10    necessarily preclude me from making a  
11    judgment about the other red flags or other  
12    aspects of that prescription.

13                    I don't believe billing has  
14    anything to do -- billing of a prescriber for  
15    the services they provide has nothing to do  
16    with filling a prescription. For a  
17    pharmacist to fill a prescription.

18                    And it has nothing to do -- it  
19    has no bearing on the types of patients that  
20    this -- that these physicians are seeing.  
21    None whatsoever. That's my position.

22             Q.       Okay. So the fact that a  
23    pharmacist is alerting Giant Eagle management  
24    that they believe that this pain clinic, with  
25    doctors who I think they said prescribe only

1   narcotics, are shady in some way, from your  
2   perspective, that doesn't bleed over into the  
3   analysis of whether or not you should fill an  
4   opioid prescription presented and written by  
5   one of those doctors?

6                   MR. KOBRIN:   Object to form.  
7                   Misrepresents testimony.   He said it  
8                   was a factor.

9                   THE WITNESS:   Also, the first  
10                  part of your question -- and restate  
11                  the first part of that question again?  
12                  Because there was something that I  
13                  misunderstood.

14   QUESTIONS BY MR. GADDY:

15                  Q.           Okay.   So we had a pharmacist  
16                  alerting Giant Eagle management about a pain  
17                  clinic --

18                  A.           Okay.

19                  Q.           -- that had doctors that it  
20                  said were being investigated for fraudulent  
21                  billing.

22                               And the pharmacist is raising  
23                  the issue that if we have this pain clinic  
24                  who prescribe only narcotics, are shady in  
25                  this way, how should we factor in our

1 decision about whether or not to fill their  
2 controlled substance prescriptions?

3 And what I hear you telling me  
4 is it has nothing -- one has nothing to do  
5 with the other. The one does not bleed over  
6 into whether or not to fill an opioid  
7 prescription.

8 MR. KOBRIN: Object to form.

9 QUESTIONS BY MR. GADDY:

10 Q. Did I understand you correctly?

11 MR. KOBRIN: Object to form.

12 Misrepresents his testimony. It  
13 misrepresents the evidence.

14 Why don't we look at the  
15 document itself and see what they  
16 said.

17 THE WITNESS: I'd like to  
18 see -- I would like to see the  
19 document again to review.

20 Do you know the tab number?

21 QUESTIONS BY MR. GADDY:

22 Q. I can find it if you really  
23 want to look at it.

24 A. I do.

25 Q. Okay. It's going to be Tab 6,

1 P-HBC-24.

2 A. Okay. I'm sorry, Mr. Gaddy,  
3 did you say behind Tab 24?

4 Q. No, it's Tab 6. 24 is my  
5 internal number.

6 A. My fault. Okay.  
7 This is a pharmacist raising  
8 this concern.

9 Q. Tell me when you're there,  
10 Mr. Chunderlik, and I'll ask a question.

11 A. I'm there. I'm there.

12 Q. Okay. You know from a  
13 pharmacist, right?

14 A. Yes.

15 Q. Sent to you, who is the manager  
16 of pharmacy compliance at this time, correct?

17 A. Yes.

18 Q. And they're raising the issue.  
19 I think -- they say they have a concern,  
20 right? That's one of the things they have, a  
21 question/concern?

22 A. Yes.

23 Q. And they're talking about a  
24 pain clinic that prescribes -- that all they  
25 prescribe is narcotics, right?

1           A.       I see that.

2           Q.       All right. And it goes on to  
3 say they've become aware that one of the  
4 doctors at the clinic has been charged with  
5 fraudulent billing; there's 15 others  
6 involved; may or may not be at this practice.  
7 I guess we can't tell from this  
8 communication.

9                   They say they had another issue  
10 with a different doctor in their practice  
11 being shut off from Gateway as provider.

12                   He goes on to say, "I realize  
13 these aren't issues with the controlled  
14 substance prescribing, but my question is, if  
15 they are shady in one way, should we be  
16 comfortable filling prescriptions from them  
17 at all, especially given the nature of drugs  
18 they prescribe."

19                   Do you see that?

20          A.       Yes.

21                   MR. KOBRIN: Object to form.  
22 He's the only one at the practice who  
23 was charged or accused of fraudulent  
24 billing, and it does not suggest that  
25 the 15 had anything to do with the

1 practice.

2 It's one of --

3 QUESTIONS BY MR. GADDY:

4 Q. You with me, Mr. Chunderlik?

5 A. I see it. I see this.

6 Q. Okay. My question to you,  
7 because I was not clear based on the question  
8 that you went through with your attorney  
9 earlier, is: This set of facts that this  
10 pharmacist is presenting, is that a factor at  
11 all to be considered when filling controlled  
12 substance prescriptions, opioid  
13 prescriptions, coming from this particular  
14 practice that, according to this pharmacist,  
15 has determined that they're shady in one way.

16 Is that a factor at all to be  
17 considered?

18 MR. KOBRIN: Object to form.

19 THE WITNESS: It may be a  
20 factor, but it's not a blanket reason  
21 not to fill a prescription. It's --  
22 it's pretty low on the -- it's pretty  
23 low on the red flag scale. And that's  
24 my term.

25

1 QUESTIONS BY MR. GADDY:

2 Q. Okay.

3 A. Because patients -- this --  
4 billing by a provider has nothing to do with  
5 filling a prescription, with writing a  
6 prescription or the types of patients that  
7 they see. It has nothing to do with -- maybe  
8 the -- maybe the clinic has problems, they  
9 don't have -- maybe they don't have trained  
10 people to do their billing for them. It has  
11 nothing to do with prescribing or writing  
12 prescriptions.

13 Q. How does this factor come into  
14 play? How does the pharmacist use this -- I  
15 think you said pretty low on the red flag  
16 scale.

17 How do they use this low red  
18 flag in evaluating prescriptions from doctors  
19 that this pharmacist has determined are shady  
20 in one way?

21 MR. KOBRIN: Object to form.

22 THE WITNESS: To be honest, I  
23 really -- I really don't know. I  
24 can't speak for how pharmacists would  
25 view this.

1 QUESTIONS BY MR. GADDY:

2 Q. So from your perspective as the  
3 former training manager at Giant Eagle for  
4 the pharmacy team members, as well as the  
5 compliance -- the pharmacy compliance  
6 manager, you don't know how this information  
7 would be used by pharmacists to determine  
8 whether or not to fill opioid prescriptions  
9 from doctors at this practice, correct?

10 A. I can't speculate on how they  
11 would use this information to make a  
12 determination whether they would fill or not  
13 fill a prescription from this practice.

14 MR. GADDY: Thank you,  
15 Mr. Chunderlik. That's all I have.

16 MR. KOBRIN: Okay.

17 VIDEOGRAPHER: The time is  
18 1:57 p.m. We are off the record.

19 (Deposition concluded at 1:57 p.m.)

20 - - - - -

21

22

23

24

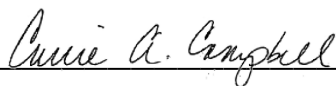
25

CERTIFICATE

I, CARRIE A. CAMPBELL, Registered  
Diplomate Reporter, Certified Realtime  
Reporter and Certified Shorthand Reporter, do  
hereby certify that prior to the commencement  
of the examination, George Chunderlik, was  
duly sworn by me to testify to the truth, the  
whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the  
foregoing is a verbatim transcript of the  
testimony as taken stenographically by and  
before me at the time, place and on the date  
hereinbefore set forth, to the best of my  
ability.

I DO FURTHER CERTIFY that I am  
neither a relative nor employee nor attorney  
nor counsel of any of the parties to this  
action, and that I am neither a relative nor  
employee of such attorney or counsel, and  
that I am not financially interested in the  
action.



CARRIE A. CAMPBELL,  
NCRA Registered Diplomate Reporter  
Certified Realtime Reporter  
Notary Public

Dated: March 12, 2021

1 INSTRUCTIONS TO WITNESS

2  
3 Please read your deposition over  
4 carefully and make any necessary corrections.  
5 You should state the reason in the  
6 appropriate space on the errata sheet for any  
7 corrections that are made.

8 After doing so, please sign the  
9 errata sheet and date it. You are signing  
10 same subject to the changes you have noted on  
11 the errata sheet, which will be attached to  
12 your deposition.

13 It is imperative that you return  
14 the original errata sheet to the deposing  
15 attorney within thirty (30) days of receipt  
16 of the deposition transcript by you. If you  
17 fail to do so, the deposition transcript may  
18 be deemed to be accurate and may be used in  
19 court.

ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the foregoing  
pages and that the same is a correct  
transcription of the answers given by me to  
the questions therein propounded, except for  
the corrections or changes in form or  
substance, if any, noted in the attached  
Errata Sheet.

\_\_\_\_\_  
George Chunderlik

\_\_\_\_\_  
Date

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

My commission expires: \_\_\_\_\_

Notary Public

1	- - - - -		
	ERRATA		
2	- - - - -		
3	PAGE	LINE	CHANGE / REASON
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
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